



DIVISION OF
CORPORATION FINANCE

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

December 15, 2017

Gene D. Levoff
Apple Inc.
glevoff@apple.com

Re: Apple Inc.
Incoming letter dated October 9, 2017

Dear Mr. Levoff:

This letter is in response to your correspondence dated October 9, 2017 and November 20, 2017 concerning the shareholder proposal (the "Proposal") submitted to Apple Inc. (the "Company") by Eli Plenk et al. for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also have received correspondence on Eli Plenk's behalf dated November 15, 2017 and December 12, 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: Pat Miguel Tomaino
Zevin Asset Management, LLC
pat@zevin.com

December 15, 2017

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Apple Inc.
Incoming letter dated October 9, 2017

The Proposal requests that the compensation committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company's compensation incentive plans.

There appears to be some basis for your view that the Company may exclude the Proposal under rule 14a-8(i)(12)(ii). In this regard, we note that proposals dealing with substantially the same subject matter were included in the Company's proxy materials for meetings held in 2017 and 2016 and that the 2017 proposal received less than 6 percent of the vote. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on rule 14a-8(i)(12)(ii). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

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.

Zevin Asset Management, LLC

PIONEERS IN SOCIALLY RESPONSIBLE INVESTING

December 12, 2017

Via E-Mail: shareholderproposals@sec.gov

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

Re: Apple Inc November 20, 2017 Supplemental Letter regarding Shareholder Proposal on Sustainability and CEO Compensation

Ladies and gentlemen:

This letter is submitted by Zevin Asset Management, LLC as the designated representative in this matter on behalf of Eli Plenk (hereinafter referred to as “Proponent”), who is the beneficial owner of 100 shares of stock of Apple Inc (hereinafter referred to as “Apple” or the “Company”), and who has submitted a shareholder proposal (hereinafter referred to as “the Proposal”) to Apple, to respond Apple’s Supplemental Letter dated November 20, 2017 sent to the Office of Chief Counsel.

The Proponent’s position stands since our November 15, 2017 Response (the “Response”) to the original No Action Request sent by Apple on October 9, 2017: this Proposal must be included in Apple’s 2018 proxy statement, because the Proposal raises a significant policy issue (sustainability and executive compensation) which is worthy of a vote by investors at the next annual meeting. The Proposal’s focus, means, and scope are materially different from other proposals voted at Apple in prior years. The Proposal at issue addresses different underlying concerns and different subject matter than prior proposals. Thus, the Company is not justified in excluding the Proposal on the grounds advanced in the original No Action Request.

Apple’s new Supplemental Letter makes two additional arguments, neither of which justifies exclusion of the Proposal:

- I. Apple relies on the most recent Staff Legal Bulletin (SLB 14I) to contend that, because the Company has managers working on sustainability issues and the Company aims to distinguish itself in areas of corporate sustainability, the sustainability concerns of the Proposal must be “day-to-day concerns of the Company’s management team.” In the Board’s view, “sustainability, diversity and inclusion are an integral part of ordinary business at the Company.” As such, says Apple, these issues are routinely reviewed and managed by both Management and the Board and are therefore not suitable for a shareholder vote.
- II. Apple repeats at length the same arguments that appear in its original No Action Request and cherry-picks communications from the co-filers to argue that the current Proposal is substantially the same as prior proposals.

Both of the above arguments are unconvincing and, indeed, wholly out of touch with the text and meaning of the Proposal at issue. We respectfully encourage the Staff to concur in our view and inform Apple that it may not exclude the current Proposal from proxy materials for its 2018 annual meeting of shareholders.

Response to Argument I: The Board’s analysis of sustainability as “ordinary business” is flawed and not convincing as grounds to exclude this Proposal.

In this respect, we broadly agree with the recent analysis provided by attorney Sanford Lewis on behalf of Christine Jantz in a December 4, 2017 letter to the Office of Chief Counsel in connection with the Jantz proposal on net-zero greenhouse gas goals (attached with permission). We refer the Staff to Part I of the Jantz letter analysis presented on Pages 6 through 14. The Jantz analysis prominently notes, in partial reference to the present Proposal:

The Company Supplemental Letter, and other no action requests filed by Apple regarding proposals requesting a human rights committee, sustainability metrics, and report on freedom of expression, appear to be the first purported applications of the new Staff Legal Bulletin 14I, issued at the beginning of November 2017, which invited boards of directors to weigh in on whether a proposal addresses a significant policy issue.

As with the other Proposals cited in the Jantz letter, Apple is using a Board analysis to try to prove that the current Proposal addresses “ordinary business and need not be included on the Company’s proxy statement.” (In so arguing, as noted in the Jantz letter, Apple’s lawyers risk undermining the entire shareholder proposal process as a viable and useful means by which investors convey material concerns to companies and boards.)

We would especially direct the Staff to Pages 9 and 10 of the Jantz letter, which reaffirms the time-honored test and burden laid out for companies seeking to exclude shareholder proposals (citations omitted):

The legal framework for Rule 14a-8(i)(7) developed by the Commission, Staff and the courts, including under the Staff Legal Bulletin 14I, comprises a four-part test:

Question 1. Ordinary Business. Is the subject matter one of “ordinary business”? That is, is it a topic that is integral to the day-to-day management and operations of the company?

Question 2. Significant Policy Issue. If the answer to Question 1 is yes, is the subject matter nevertheless a significant policy issue – a subject of widespread public debate? In those cases in which a proposal’s underlying subject matter transcends the day-to-day business matters of the company and raises policy issues so significant that it would be appropriate for a shareholder vote, the proposal generally will not be excludable under Rule 14a-8(i)(7) as long as a sufficient nexus exists between the nature of the proposal and the company.

On what topics does a proposal address a significant policy issue that transcends ordinary business? Staff decisions have made it clear that this inquiry concerns whether the proposal addresses an issue of widespread public debate. Examples recognized by the Commission and the Staff include such topics as environmental impact, human rights, climate change, discrimination, as well as virtually all issues of corporate governance.

Question 3. Nexus. If the answer to Question 2 is yes, the next question is: Is there a nexus of the subject matter to the Company - does the subject matter of widespread public debate relate significantly to the company’s business or strategy? The invitation to the board of directors under the Bulletin is to demonstrate that the issue is insignificant for the company.¹⁸ Unfortunately, it is predictable that some Boards of Directors may “find” a subject matter insignificant merely because it is trying to find a grounds to exclude a proposal. Therefore, it is also necessary for the proponent to provide any evidence that contradicts the board’s finding of

insignificance. Ultimately, the determination of insignificance to a company is the obligation of the Staff, the Commission, or the courts. If there is a reasonable basis for concluding that a significant policy issue has a connection to a company, it transcends ordinary business at the company.

Question 4. Micromanagement. Finally, if all of the above are true, does the approach of the proposal micromanage? Even if the proposal's subject matter transcends ordinary business (number two) and has a connection to the company (number three), the proposal still may be excludable if the approach of the proposal micromanages the company's business.

The above framework is longstanding, fair, and grounded in years of Staff guidance and case history. However, just as with the Jantz proposal, in evaluating the current Proposal, the Apple Board "focused its analysis principally on Question 1." Focused as it was on that ordinary business analysis, likewise "the Apple Board is unable to demonstrate that the subject matter does not address a significant policy issue (Question 2) nor that it lacks a connection to the Company's business (Question 3). Further, the proposal does not micromanage (Question 4)."

In our view, it is well established that Proposals focused on sustainability risk and opportunity very frequently raise significant policy issues and have clear nexus with a company's business. Moreover, it is established that proposals which implicate the corporate governance of a company and its executive compensation arrangements (rather than tinker with minute policies) frequently safely avoid micromanagement.

At any rate, Apple has not argued otherwise regarding Questions 2 through 4 above. Apple has only transmitted a pro-forma read-out of the Board's opinion that the present Proposal touches on ordinary business. Evidently, according to Apple's Supplemental Letter at page 4, the Board believes that "because of the devotion of the Company's talented management team in pursuing the Company's mission to be the most innovative and diverse company and hold a leadership role on other important sustainability issues, the company believes that the concerns raised by the Proposal are likewise the day-to-day concerns of the Company's management team."

The situation in the present instance is just as the Jantz proponent described in its December 4 letter regarding the Apple Board's analysis of that proposal:

The Apple Board essentially concluded that because it has significant programs in place, and the board and management regularly discuss and address issues of environment and human rights, these have become matters of ordinary business.

We strongly agree with the conclusion in the Jantz letter that:

This approach taken by the Board of Directors is legally inconsistent with the role and expertise of a board in the shareholder proposal process. If the Board has any role to play in determinations under Rule 14a-8(i)(7) it would be limited to finding that an issue is "insignificant" for the company. Moreover, we believe the Board has a fiduciary duty to encourage shareholder engagement on social and environmental issues through the shareholder proposal process, a duty contradicted by this reflexive attempt to find a means of excluding environmental and human rights proposals.

Indeed, the Company has not argued that sustainability metrics (the subject matter of the present Proposal) are not significant, nor that the Proposal's request has been substantially implemented. In arguing that sustainability is the subject of management interest at Apple, the Company has only affirmed that sustainability (and executive compensation) is a significant issue worthy of consideration.

The Company has not, however, shown that such a significant issue would be inappropriate for investors to consider at the annual meeting of shareholders. To do that, in keeping with years of Staff guidance and case precedent, the Company would have to show *anything* relevant to Questions 2, Question 3 and Question 4 in the Jantz analysis above. But the Company has done nothing to argue that the current Proposal is insignificant (quite the opposite), without a nexus to its business, or micromanaging of the Company's affairs. So, the Proposal remains ripe and appropriate for consideration by Apple's investors.

Since the Company has not sought to show that Questions 2 through 4 in the above analysis go against the Proponent, we will not re-argue points which are obvious from the text of the Proposal and from our original Response to Apple's No Action Request. In the interests of time and convenience, we encourage the Staff to fully consider our Response to Apple's No Action Request together with the arguments of Part I of the Jantz letter cited above as they pertain to this Proposal.

In our Response to Apple's No Action Request, we cited Apple's actions regarding sustainability. This was to demonstrate that sustainability is a well-known issue of shareholder concern to Apple and to companies in the markets generally. This Proposal reflects that concern over sustainability broadly — with diversity and inclusion as an important case-in-point for Apple and the broader tech sector. However, that argument from our Response should not be construed as support for the notion that the subject matter of the Proposal has been converted into an ordinary business matter for the Company.

On the contrary, in closing this section, we encourage the Staff not to ratify the view of the Apple board that our proposal is excludable simply because Apple management is working on some sustainability issues. Management attention does not transubstantiate significant, complex, and pertinent policy issues into ordinary business matters. The Company's arguments should be subject to the long-standing analytic framework applied to these decisions, and the Proposal should therefore be included on the 2018 Apple annual meeting ballot.

Response to Argument II: The current Proposal is focused on long-term sustainability and executive compensation.

Neither Apple's No Action Request nor its Supplemental Letter can negate or cast doubt on the facts which are plain from the face of this Proposal. These are the words that will greet investors voting this Proposal at the 2018 annual meeting of shareholders:

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company's compensation incentive plans. For the purposes of this proposal, "sustainability" is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and "diversity" refers to gender, racial, and ethnic diversity.

Despite Apple's references to the shareholder proponents, its insinuations that a plainly-written proposal is "misleading," and its unwillingness to "get past" the notion that diversity is simply one among dozens of pressing sustainability issues and potential compensation metrics facing Apple, the Proposals' request (above) remains simple and clear. The Proponent asks for the Company to consider incorporating sustainability metrics into CEO compensation determinations. As any sustainability professional would counsel the Company, diversity and inclusion issues are particularly material for its long-term success. So, diversity is called out as a notable case-in-point — and nothing more.

The above would be plain to any reasonable shareholder meeting voter. Reading the above Resolved Clause in concert with the Supporting Statement, the reasonable shareholder meeting voter would understand more information about peers which have tied executive compensation to sustainability

metrics and the broad rationale for making that change. In the Supporting Statement, diversity remains a case-in-point worthy of note — but that is a function of the nature of Apple’s business and current challenges, rather than a pet issue of the Proponent, as the Company contends.

We respectfully encourage the Staff to consider that shareholder meeting voters will read the proposal in good faith and come to a reasonable conclusion about the Proposal’s “ask”: consider linking executive compensation to sustainability metrics. We would have expected Apple to do the same.

There is little in the way of new argument in Apple’s Supplemental Letter. So, as above, we will not rehearse the arguments presented in our Response to Apple’s No Action Request. However, we would be grateful to the Staff for noting the following points:

1. Apple’s contention at page 6 of the Supplemental Letter (“The Proposal refers to chief executive officer compensation only as a tool for achieving increased diversity at the Company.”) is completely unsupported. Again, the Company extrapolates from facial similarities between the Proposal and prior proposals to impute an intent that is not manifest in the Resolved Clause of the Proposal itself. We would respectfully encourage the Staff to evaluate the Proposal as a reasonable voter would — the focus on sustainability and compensation that emerges was the intent of the Proponent and nothing else.
2. Apple’s review of tweets on Page 7 of the Supplemental letter is meaningless. We have addressed this line of argument amply in this letter and in our original Response. Diversity and inclusion simply and undeniably arises as one of among several material sustainability issues facing the Company. That investors would be interested in diversity as a notable case-in-point of Apple’s sustainability challenges is not surprising and provides no insight on the broad intent of the current Proposal — which is sustainability and executive compensation generally.
3. Moreover, that a nongovernmental organization focused on tech sector diversity, among other tech sector issues, would highlight this Proposal is neither surprisingly nor meaningful. What Apple fails to mention is that OpenMic highlights in its sub-headline that the current Proposal deals with diversity only among “other sustainability goals.” If OpenMic understood that basic fact about the Proposal’s intent, why can’t Apple understand it?
4. At various points, the Company has attempted to argue that Zevin Asset Management, the Proponent (Zevin’s client), or certain co-filers of the Proposal are not interested in general issues of corporate sustainability at Apple. Nothing could be further from the truth. Zevin Asset Management is a socially responsible investment manager which integrates financial and environmental, social, and governance research in making investment decisions on behalf of our clients. As a matter of course, we review material environmental, social, and governance (ESG) risks facing Apple (and other companies in our clients’ portfolios). Zevin Asset Management then acts on behalf of its clients to improve Company practices by raising concerns with management through dialogue, letters, considered proxy voting on management and shareholder proposals, and the conscientious use of other channels. Over the past several years, Apple has heard from Zevin Asset Management on multiple material sustainability issues that go beyond diversity and inclusion. Relevant examples include:
 - a. In June 2014, Zevin Asset Management joined other investors to send Apple a letter calling on the Company to remove hazardous chemicals, such as benzene, from its supplier factories in an effort to protect workers from grave illnesses.
 - b. Zevin Asset Management is one of several responsible investors who have encouraged companies to endorse the RE100 since early 2016. The RE100, which Apple joined in

- September 2016, is the economy-wide campaign in which companies pledge to source 100 percent of their energy from renewable sources.
- c. More recently, in the summer of 2017, Zevin Asset Management wrote a detailed letter to Apple raising several areas of concern around supply chain risk, health and safety, toxics, and environmental impacts. That letter dated June 30, 2017 also addressed diversity and inclusion, because that issue exists alongside supply chain risk as important sustainability issues facing Apple. Zevin Asset Management then went on to meet with senior Apple managers on August 28, 2017 in a meeting exclusively devoted to supply chain issues.

In view of the above, it is simply not believable for Apple to suggest that the filers of the current Proposal are exclusively or disproportionately focused on diversity and inclusion, either in their general engagement with Apple or in the filing of this Proposal.

Investors voting at the 2018 shareholder meeting need only read the plain language of the Proposal to understand that the current Proposal is focused on sustainability metrics and potentially linking those metrics with executive compensation. Diversity and inclusion is noted as a case-in-point, because that issue is a notable case-in-point. Apple has offered nothing in its No Action Request nor in the Supplemental Letter to show that the current Proposal is a rehash. As such, we encourage the Staff to allow the matter to move forward as a brand new and critically relevant issue for investors to consider in 2018.

Conclusion

In conclusion, we respectfully renew our request that the Staff inform the Company that Rule 14a-8 requires a denial of the Company's no-action request.

First, the Board's analysis of Apple's approach to sustainability is flawed. Management attention to sustainability does not make the Proposal an ordinary business issue. And the Company has not otherwise argued that the important policy issues raised by the Proposal are insignificant, represent micromanagement, or lack a nexus to the Company. Second, the Company has not demonstrated that this Proposal is anything other than what it is: an inquiry into the feasibility of linking sustainability metrics to executive compensation.

Thank you for your consideration. In the event that the Staff should decide to concur with the Company and issue a no-action letter, we respectfully request the opportunity to speak with the Staff in advance. Please contact me at (617) 742-6666 or pat@zevin.com with any questions in connection with this matter, or if the Staff wishes any further information.

Sincerely,



Pat Miguel Tomaino
Associate Director of Socially Responsible Investing
Zevin Asset Management, LLC

cc: Gene D. Levoff, Apple Inc
Jeffery W. Perkins, Friends Fiduciary
Antonio Avian Maldonado, II
Kelly Rogers, Employees' Retirement System of Rhode Island

Alan L. Dye, Hogan Lovells US LLP
Laura Campos, The Nathan Cummings Foundation
Renaye, Manley, SEIU Fund

Attachment A: 2018 Proposal

WHEREAS: Numerous studies suggest that companies that integrate environmental, social, and governance (ESG) factors into business strategy reduce reputational, legal, and regulatory risks and improve long-term performance.

A large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson. Guidance issued by the United Nations Principles for Responsible Investment (2012) stated that including ESG factors in executive incentive schemes can help protect long-term shareholder value.

Diversity and inclusion are key components of long-term business sustainability and success:

- McKinsey & Company research shows that companies in the top quartiles for gender and racial/ethnic diversity were more likely to have above average financial returns (“Diversity Matters,” McKinsey, 2015).
- In a 2013 Catalyst report, diversity was positively associated with more customers, increased sales revenue, and greater relative profits.
- A 2016 study by Intel and Dalberg estimates the technology sector could generate \$300–\$370 billion in additional annual revenue if tech companies reflected the racial diversity of the talent pool.

Yet technology companies have not seized this opportunity. Underrepresented people of color hold just 9 percent of technical roles in the sector (Intel/Dalberg, 2016). Women hold 36 percent of entry level tech jobs and just 19 percent of C-Suite positions (“Women in the Workplace,” McKinsey, 2016).

The tech diversity crisis creates challenges for talent acquisition and retention, product development, and customer service. In 2016, widely-reported leaked emails detailed women employees’ experiences of sexism at Apple (*Mic*, September 2016). Apple has also faced claims of racial discrimination in retail.

Our Company has taken steps to address diversity. However, current disclosures reveal that Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple’s top 107 executives were underrepresented people of color.

Apple says it strives to “better represent the communities we’re part of” and “break down historical barriers in tech.” Tim Cook has said that diversity is economically essential (*Auburn Plainsman*, April 2017) and “there is a definite diversity issue in tech, in particular in coding and computer scientists” (*New York Times*, August 2017).

Investors seek clarity regarding how Apple is driving improvement on diversity and how that strategy is supported by C-Suite accountability. Integrating diversity metrics into executive compensation assessments would enhance Apple’s approach to a challenge that it has declared mission-critical.

Peers (e.g. Microsoft, Intel, IBM) have set diversity goals and begun tying parts of executive pay to such goals.

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company’s compensation incentive plans. For the purposes of this proposal, “sustainability” is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and “diversity” refers to gender, racial, and ethnic diversity.

Attachment B (December 4, 2017 Jantz letter) follows

SANFORD J. LEWIS, ATTORNEY

December 4, 2017

Via electronic mail

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

Re: Shareholder Proposal to Apple Inc. Regarding Net Zero Greenhouse Gas Goals on
Behalf of Christine Jantz

Supplemental Reply, including response to the Apple Board of Directors

Ladies and Gentlemen:

Christine Jantz (the “Proponent”) is beneficial owner of common stock of Apple Inc. (the “Company”) and has submitted a shareholder proposal (the “Proposal”) to the Company. I have been asked by the Proponent to respond to the supplemental letter dated November 20, 2017 (“Company’s Supplemental Letter”) sent to the Securities and Exchange Commission by Gene D. Levoff on behalf of the Company. The Company sent its original no action request on October 9, and the Proponent responded on October 31.

The Company’s Supplemental Letter further discusses assertions that the Proposal may be excluded from the Company’s 2018 proxy statement, including statements that the Board of Directors has “concluded” that the Proposal’s subject matter is a matter of ordinary business for the Company and not an appropriate topic for a shareholder proposal.

This correspondence represents one of the first opportunities for an investor to respond in a no action reply to a Board of Directors opinion submitted pursuant to the new SEC Staff Legal Bulletin 14I issued on November 1, 2017. Because this presents a matter of first impression for the Staff and Commission, our letter will at times speak to fundamentals regarding the shareholder proposal process and the functioning of Rule 14a-8. It will also include a proponent’s perspective on the manner in which the SEC Staff can consider Board of Directors “opinions” on ordinary business while still fulfilling the Commission’s investor protection duties.

Our supplemental response today responds to the board’s “conclusion” and to additional arguments from the Company’s Supplemental Letter. A copy of this response letter is being emailed concurrently to Gene D. Levoff and the Apple Board of Directors.

UPDATED BACKGROUND

The relevance of this Proposal to investor concern and interest, and its importance to the global economy and environment, has grown since we submitted our initial reply on October 31. In early November, after our initial reply, the U.S. government issued the National Climate Assessment.¹ The significance of that assessment has been summarized in a number of articles.²

The World Resources Institute summarized the relevance of the Assessment in "Extreme Weather: What's Climate Change Got to Do with It?" The article contextualizes recent extreme weather events³:

An unrelenting heat wave in California, reaching 106 degrees F in San Francisco, that left six dead, strained the state's power grid and left thousands without electricity;

More than 40 million people affected by massive floods across India, Bangladesh and Nepal, with 1,300 killed and at least 1.5 million homes destroyed or damaged;

Hurricane Irma decimating the northern Caribbean, with at least 27 dead, flattening buildings, and leaving many without essential supplies, while in Florida, the hurricane killed at least four, wiped out power for 64 percent of the state and produced record storm surges;

Hurricane Harvey causing catastrophic flooding across Texas, with at least 70 deaths; Harvey and Irma combined caused an estimated \$150-200 billion in damage in the United States, and

More than 80 wildfires burning across almost 1.5 million acres in nine western U.S. states; this year, the U.S. Forest Service has already spent about \$1.75 billion on fire suppression and the Department of Interior has spent an additional \$400 million.

In light of these events, we must ask: What's climate change got to do with it?

Here is some of what we know:

Heat waves: It is no surprise that warming in the atmosphere leads to heat waves, or periods of very hot weather lasting days to weeks. In recent years, the frequency of heat waves has been increasing in many parts of the world, and the risk associated with extreme heat increases with further warming.

Storms and flooding: We also know that warming leads to higher sea levels, which in turn increases the risk of storm surge, contributing to the damage brought by hurricanes. Climate change also warms oceans, adding energy that can fuel coastal storms. Compounding this, a warmer atmosphere can hold more moisture, so there can be more moisture for storm systems, resulting in heavier rainfall. The U.S. National Climate Assessment finds that there has been a substantial increase – in intensity, frequency, and duration as well as the number of strongest (Category 4 and 5) storms – in Atlantic Ocean hurricanes since the early 1980s, linked in part to higher sea surface temperatures. By late this century, models on average

¹ *Fourth National Climate Assessment, Volume I*: US Government, November 2017
<https://science2017.globalchange.gov>

² For instance see "Global Warming Really Did Make Hurricane Harvey More Likely," *The Atlantic*, November 13, 2017. <https://www.theatlantic.com/science/archive/2017/11/global-warming-really-did-make-hurricane-harvey-more-likely/545765/> and

³ "Extreme Weather: What's Climate Change Got to Do with It?" World Resources Institute, September 18, 2017. <http://www.wri.org/blog/2017/09/extreme-weather-whats-climate-change-got-to-it>

project a slight decrease in the number of tropical cyclones each year, but an increase in the number of the strongest (Category 4 and 5) hurricanes and greater rainfall rates in hurricanes (increases of about 20 percent averaged near the center of hurricanes).

Fires: We know that higher temperatures lead to increased rates of evaporation, leading to rapid drying of soils. This can not only contribute to drought conditions but can stoke forest fires. The U.S. National Climate Assessment finds that in the western forests, large and intense fires are projected to occur more frequently, with large and longer wildfires given higher temperatures and earlier spring snowmelt.

We need to face the realities of climate change today, not fall for the fantasy that we can just ignore them and they will go away.

Even before this new information has come to light, the impact on the economy and investors from climate change was already calculated to be quite costly. In 2016, Ernst & Young published *Climate Change: The Investment Perspective*, which discusses the many different ways that investments are effected by the changing climate⁴:

The potential financial consequences of climate risk are often debated in terms of “stranded assets.” The value of global financial assets at risk from climate change has been estimated at US\$2.5t by the London School of Economics,⁵ and US\$4.2t by the Economist.⁶ For comparison, the annual Gross Domestic Product (GDP) of Japan, the world’s third largest economy, is worth about US\$4.8t.

The staggering scale of these potential losses has done a lot to raise awareness of climate risks in investment circles. But “stranding” is only part of a complex range of climate risks — each of which creates its own opportunities. Climate risks can be summarized as:

- Physical: damage to land, buildings, stock or infrastructure owing to physical effects of climate-related factors, such as heat waves, drought, sea levels, ocean acidification, storms or flooding
- Secondary: knock-on effects of physical risks, such as falling crop yields, resource shortages, supply chain disruption, as well as migration, political instability or conflict
- Policy: financial impairment arising from local, national or international policy responses to climate change, such as carbon pricing or levies, emission caps or subsidy withdrawal
- Liability: financial liabilities, including insurance claims and legal damages, arising under the law of contract, tort or negligence because of other climate-related risks
- Transition: financial losses arising from disorderly or volatile adjustments to the value of listed and unlisted securities, assets and liabilities in response to other climate-related risks
- Reputational: risks affecting businesses engaging in, or connected with, activities that

⁴ *Climate Change: An Investment Perspective*: Ernst & Young LLP, 2016, pg 2.

⁵ Dietz, Bowen, Dixon & Gradwell, Climate value at risk of global financial assets, Nature Climate Change, April 2016

⁶ “The cost of inaction”, Economist Intelligence Unit, July 2015, (C) 2015 The Economist Intelligence Unit Limited

some stakeholders consider to be inconsistent with addressing climate change

This simplified list is only a starting point for assessing climate-related risks.

As complex as climate risks may be, they only represent half the story. Global GDP is expected to triple by 2060, driven largely by developing markets.⁷ Yet, today, 1.3 billion people in those markets still have no reliable access to electricity.⁸ Delivering the power that global development will require represents a vast investment opportunity.

Research suggests that the economic benefits of investment will outweigh the costs of inaction. Studies by both the London School of Economics and Economist (referenced earlier) expect total global output to be higher under a lower emissions scenario; Citigroup expects investment in climate change mitigation to generate attractive and growing yields;⁹ and Mercer believes a 2°C scenario will not harm diversified returns to 2050, and would be accretive thereafter.¹⁰

Of course, the precise balance of investment risks and opportunities will depend on future climate scenarios, and what investment decisions will be made — whether through conventional means, e.g., coal-fired power stations, which add to global warming and climate change, or through low carbon means to help mitigate the problem.

The Proponent believes, and the Proposal reflects the sense, that responding to the new clarity of this now ongoing global catastrophe, with its dire economic, social and environmental disruptions is a matter of *utmost urgency*. Many experts believe that attaining the 2° goal needed to head off the most severe climate scenarios is near impossible, especially with current levels of effort. Attaining the 2° goal is “*physically possible*” according to Michael MacCracken, chief scientist for climate change programs at the Climate Institute, but “[i]t would take a major change of society around the world to do it. It may not be likely in the political sense, but engineering-wise, if we chose to do it and invest in it, we could.” Michael Oppenheimer, a professor of geosciences and international affairs at Princeton University, concurs, noting that “[attaining the 2° goal] is going to be hard, and if we don’t move firmly on emissions reductions, it ain’t gonna happen.”¹¹

The approach of the proposal in context

The Company has announced that it intends to eliminate the carbon footprint of its manufacturing processes, but has not set a target date for doing so. The thrust of the proposal is requesting the company to set a target date for reaching a zero carbon footprint.

In its correspondence, the Company makes much of the “negative emissions” element of the proposal, as if it requires a technical digression from the existing efforts. However, the proposal is consistent with and encouraging of the Company’s current *technical* approaches to

⁷ “GDP long-term forecast (indicator). doi: 10.1787/d927bc18-en”, OECD, (Accessed on 19 July 2016)

⁸ “World Energy Investment Outlook”, International Energy Agency, June 2014, 2014 OECD/IEA

⁹ Channell, Curmi, Nguyen, Prior, Syme, Jansen, Rahbari, Morse, Kleinman, Kruger, “Energy Darwinism II”, Citi, August 2015, 2015 Citigroup, “World Energy Investment Outlook”, International Energy Agency, June 2014, 2014 OECD/IEA

¹⁰ “Investing in a time of climate change”, Mercer, April 2015 © 2015 Mercer LLC/International Finance Corporation/UK Department for International Development

¹¹ “Little Chance to Restrain Global Warming to 2 Degrees, Critic Argues”, Lisa Friedman, ClimateWire, May 7, 2015.

eliminating its carbon footprint and to consider other options to the extent that existing strategies are inadequate to the task. It principally asks the Company to explore the feasibility of establishing a target date for attaining of a net zero carbon footprint, treating it as a true "moonshot" – a time-limited stretch goal.¹² Setting deadlines to stretch to, in order to demonstrate commitment and encourage innovation, is a frequently deployed strategy in the tech sector. Publicizing such "moonshots" demonstrates determination and sends signals to the market and to supply chains.

In contrast, in its declarations that it seeks to reduce and eliminate its carbon footprint, Apple has not set a date, deadline or timeline other than "as soon as possible." **It could be accomplished in five years or in 50, we have no way of knowing.**

The Proposal also requests the Company to consider negative emissions strategies where necessary to fully attain the goal of zero carbon footprint on its chosen timeline. This flexible approach is consistent with scientific understanding regarding the scope and pace of reduction activities that will be necessary to achieve the 2° goal. An important 2015 study, published in *Nature Communications*, further explains that all pathways consistent with 2° goal modeling involve negative emissions to some extent. The authors warn that the amount of negative emissions required to stay below 2 degrees may even be underestimated.¹³

Because Apple is a pacesetter in the tech sector regarding responses to the global climate change challenge, the Proponent believes that the company's "as soon as possible" policy is not yet congruent with the urgency of global demands to curtail carbon emissions. That is why the Proposal encourages the Company to explore setting a specific date for reaching net zero GHG goals by all appropriate measures.

¹² More than 50 years ago, U.S. President John F. Kennedy captured the world's imagination when he said, "This nation should commit itself to achieving the goal, before the decade is out, of landing a man on the moon and returning him safely to the Earth."

¹³ T. Gasser, C. Guivarch, K. Tachiiri, C. D. Jones & P. Ciais, "Negative emissions physically needed to keep global warming below 2°C," *Nature Communications* 6, Article number: 7958 (2015). See also, "Two degree climate target not possible without 'negative emissions', scientists warn", Roz Pidcock, *Global Temperature*, 03.08.2015.

ANALYSIS

I. RESPONDING TO THE BOARD OF DIRECTORS OPINION REGARDING ORDINARY BUSINESS

A. Proponent's Analysis of the new Staff Legal Bulletin invitation for boards of directors to submit findings regarding Rule 14a-8(i)(7)

The Company Supplemental Letter, and other no action requests filed by Apple regarding proposals requesting a human rights committee, sustainability metrics, and report on freedom of expression, appear to be the first purported applications of the new Staff Legal Bulletin 14I, issued at the beginning of November 2017, which invited boards of directors to weigh in on whether a proposal addresses a significant policy issue. The Board of Directors of Apple submitted findings asserting that all four proposals address ordinary business and need not be included on the Company's proxy statement.

Since this is the first opportunity for investors to formally respond to issues raised by this aspect of the Bulletin, we will briefly review the Bulletin and its relationship to existing precedents and legal duties of the Commission and Staff.

The Bulletin states:

At issue in many Rule 14a-8(i)(7) no-action requests is whether a proposal that addresses ordinary business matters nonetheless focuses on a policy issue that is sufficiently significant. These determinations often raise difficult judgment calls that the Division believes are in the first instance matters that the board of directors is generally in a better position to determine. A board of directors, acting as steward with fiduciary duties to a company's shareholders, generally has significant duties of loyalty and care in overseeing management and the strategic direction of the company. A board acting in this capacity and with the knowledge of the company's business and the implications for a particular proposal on that company's business is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote.

Accordingly, going forward, we would expect a company's no-action request to include a discussion that reflects the board's analysis of the particular policy issue raised and its significance. That explanation would be most helpful if it detailed the specific processes employed by the board to ensure that its conclusions are well-informed and well-reasoned. We believe that a well-developed discussion of the board's analysis of these matters will greatly assist the staff with its review of no-action requests under Rule 14a-8(i)(7).

The shareholder proposal process provides a legal right to investors to weigh in on issues of significant social policy matters. It is in that context that we consider the invitation to boards of directors to provide input on whether a proposal addresses a significant policy issue. The Bulletin's invitation to boards has the potential to make a board's oversight more visible and accountable — for boards of directors to consider the significance and relevance of proposals earlier in the process after receiving a proposal, and to encourage investors to communicate directly with the Board of Directors. In this response, we are copying the Board of Directors of Apple and bringing attention to our belief that they have misinterpreted the proposal, the Bulletin and the ordinary business rule.

However, if the Bulletin itself is misunderstood or abused by boards, it could undermine the integrity of the shareholder proposal process. For instance, the approach taken by the Board of Directors of Apple would effectively entitle nearly any company to exclude a shareholder

proposal, because they would merely need to assert that the board has already given its attention to issues like those in the proposal and that the company dedicates resources to attend to such issues. By their view, the fact that the company's policies are out of alignment with the proposal's policy and transparency requests would be irrelevant.

As stated in *Medical Committee for Human Rights v. Securities and Exchange Commission*, 432 F.2d 659 (D.C. Cir. 1970):

[T]he clear import of the language, legislative history, and record of administration of section 14(a) is that its overriding purpose is to assure to corporate shareholders the ability to exercise their right — some would say their duty — to control the important decisions which affect them in their capacity as stockholders and owners of the corporation. Thus, the Third Circuit has cogently summarized the philosophy of section 14(a) in the statement that "[a] corporation is run for the benefit of its stockholders and not for that of its managers." *SEC v. Transamerica Corp.*, 163 F.2d 511, 517 (3d Cir. 1947), cert. denied, 332 U.S. 847, 68 S. Ct. 351, 92 L. Ed. 418 (1948).

* * *

What *is* of immediate concern... is the question of whether the corporate proxy rules can be employed as a shield to isolate such managerial decisions from shareholder control.³² After all, it must be remembered that "[t]he control of great corporations by a very few persons was the abuse at which Congress struck in enacting Section 14(a)." *SEC v. Transamerica Corp.*, *supra*, 163 F.2d at 518.

In most instances, when a proposal is presented to a company and will appear on the proxy, a Board of Directors issues a statement in opposition. For example, Trillium Asset Management filed a proposal in 2007 encouraging the Company to become a leader in eliminating persistent and bioaccumulative toxic chemicals, and all types of brominated flame retardants (BFRs) and polyvinyl chloride (PVC) plastics, in all Apple products, including an expeditious timetable to end the use of all BFRs and PVC.¹⁴ The company's opposition statement asserted that the Company's existing processes of managing chemicals were adequate. However, in the years since the proposal was filed, the Company has moved forward to eliminate many of the chemicals targeted by the proposal.¹⁵

Similarly, shareholders As You Sow, New York City Comptroller, and Calvert Asset Management Inc. proposed that Apple issue a sustainability report in a 2010 proposal. Their proposal focused on greenhouse gas reporting, despite some good reporting on GHGs by Apple, because it was not providing information needed by investors:

Apple, however, lags behind global industry peers on sustainability reporting. It has released some product specific information on greenhouse gas emissions but its usefulness is limited as nearly all other companies use aggregate emission estimates. Apple has not made public greenhouse gas reduction commitments.

The Board of Directors opposed the proposal, claiming that the work the company was already doing on reporting sustainability in disparate locations and in its forms of GHG reporting was ample. The Board opposition statement to that proposal is strikingly similar to the current assertions of the Board regarding ordinary business:

¹⁴ Apple 2007 proxy statement. <http://investor.apple.com/secfiling.cfm?filingid=1104659-07-28382&cik=320193>

¹⁵ <https://qz.com/663763/six-of-the-worst-toxins-apple-says-it-has-phased-out-of-its-products/>

The Company recognizes its responsibility as a global citizen and has been working proactively for years to reduce the environmental impact of its corporate operations as well as the manufacturing and use of its products, which accounts for 95% of the greenhouse gas emissions associated with the Company. The Company also provides its customers and shareholders with an unmatched level of detail on its environmental performance, both at the product level and for the Company as a whole.

Yet, despite the Board's opposition to the Proposal, the Company's reporting has evolved considerably and very much in the direction of the 2010 proposal's requests, joining 2,700 other companies that were already issuing such reports.

From this history it is clear that whether and when a proposal appears on the proxy, the process is at its core a contest of views between the Board and its shareholders, and integrates an essential role for the owners of the company to help set direction on matters of significant social import.

Whether an issue presents a significant public controversy that transcends ordinary business, and therefore is appropriate for shareholders to vote on, is not the domain or expertise of the Board of Directors of the company. We already know from decades of experience with the shareholder proposal process that Boards oppose the proposals, and generally believe that the strategies, transparency and accountability they are deploying are adequate to the subject being addressed.

The shareholder proposal process is the opportunity for the owners to weigh in, especially where the Board of Directors may appear to be shortsighted, lacking transparency, or missing essential issues regarding the impact of corporate policies on society. The SEC is the protector of these investors' rights to participate, and must weigh the evidence and determine whether a subject matter is of significant social importance. If the issue raised, and especially transparency and accountability on the issue, is not substantially implemented, the Board of Directors is probably the least qualified entity to make a determination finding the issue is "ordinary" and therefore not subject to shareholder accountability.

Attending to "ordinary business" is the exclusive domain of the Board of Directors, but attending to significant policy issues suitable for shareholder deliberation is not. This was made clear in *Medical Committee for Human Rights v. SEC*, 432 F.2d 659 (D.C. Cir. 1985) in which the D.C. Circuit Court found that shareholder proposals are proper (not ordinary business) when they raise issues of corporate social responsibility or question the "political and moral predilections" of board or management. **The keystone of that decision, as noted above, is that board and management have no monopoly on expertise over investors when it comes to issues with broad and significant social consequence.** Investors are entitled to weigh in through the shareholder proposal process.

In addition to the many other grounds for potential exclusion of proposals under Rule 14a-8, the limitation on the ability of shareholders to weigh in on social and environmental issues is defined in part by the ordinary business rule, which prevents shareholders from delving too deeply into the everyday management of the company's business. In effect, this means that proposals must address widely debated policy issues that have a reasonable connection to the company's business.

The legal framework for Rule 14a-8(i)(7) developed by the Commission, Staff and the courts, including under the Staff Legal Bulletin 14I, comprises a four-part test:

Question 1. Ordinary Business. Is the subject matter one of “ordinary business”? That is, is it a topic that is integral to the day-to-day management and operations of the company?¹⁶

Question 2. Significant Policy Issue. If the answer to Question 1 is yes, is the subject matter nevertheless a significant policy issue – a subject of widespread public debate?

In those cases in which a proposal's underlying subject matter transcends the day-to-day business matters of the company and raises policy issues so significant that it would be appropriate for a shareholder vote, the proposal generally will not be excludable under Rule 14a-8(i)(7) as long as a sufficient nexus exists between the nature of the proposal and the company.¹⁷

On what topics does a proposal address a significant policy issue that transcends ordinary business? Staff decisions have made it clear that this inquiry concerns whether the proposal addresses an issue of widespread public debate. Examples recognized by the Commission and the Staff include such topics as environmental impact, human rights, climate change, discrimination, as well as virtually all issues of corporate governance.

Question 3. Nexus. If the answer to Question 2 is yes, the next question is: Is there a nexus of the subject matter to the Company - does the subject matter of widespread public debate relate significantly to the company's business or strategy? The invitation to the board of directors under the Bulletin is to demonstrate that the issue is insignificant for the company.¹⁸ Unfortunately, it is predictable that some Boards of Directors may “find” a subject matter insignificant merely because it is trying to find a grounds to exclude a proposal. Therefore, it is also necessary for the proponent to provide any evidence that contradicts the board's finding of insignificance. Ultimately, the determination of insignificance to a company is the obligation of the Staff, the Commission, or the courts. If there is a reasonable basis for concluding that a significant policy issue has a connection to a company, it transcends ordinary business at the company.

Question 4. Micromanagement. Finally, if all of the above are true, does the approach of the proposal micromanage? Even if the proposal's subject matter transcends ordinary business (number two) and has a connection to the company (number three), the proposal still may be excludable if the approach of the proposal micromanages the company's business.

¹⁶ Staff Legal Bulletin 14H published in 2015 described ordinary business in terms of the “nitty gritty” of corporate management: “a proposal may transcend a company's ordinary business operations even if the significant policy issue relates to the “nitty-gritty of its core business.” This makes the distinction between and ordinary business determination and a significant policy determination clear.

¹⁷ Staff Legal Bulletin No. 14E (October 27, 2009).

¹⁸ William Hinman, Director of the Corporation finance division, and Matt McNair, Senior Special Counsel have made this point (based on their personal interpretations of the Bulletin) in publicly reported comments. <https://www.briefinggovernance.com/2017/11/what-we-know-so-far-about-the-new-slb-on-shareholder-proposals/> https://www.thecorporatecounsel.net/Webcast/2017/11_14/transcript.htm

B. Applying the Analytical Framework to the Board's "findings" regarding the present Proposal

The Apple Board of Directors' "findings" involve a fundamental misinterpretation of the Staff Legal Bulletin. It appears that the Board of Directors focused its analysis principally on Question 1 – whether the Proposal's subject matter is ordinary business for the company. However, the Apple Board is unable to demonstrate that the subject matter does not address a significant policy issue (Question 2) nor that it lacks a connection to the Company's business (Question 3). Further, the proposal does not micromanage (Question 4).

In the present instance, the Proposal clearly addresses the significant policy issue of climate change, and has a clear connection to the Company's business activities given the magnitude of energy usage by the Company, greenhouse gases generated, the Company's expenditures and leadership on climate change. The Proposal does not micromanage the Company in prodding the company to explore elimination of the company's carbon footprint on a fixed timeframe.

The Board of Directors is in error in its interpretation that because the proposal addresses "ordinary business" it is excludable. It addresses a transcendent policy issue with a connection to the company and does not micromanage. It is not excludable.

i. The Apple Board finding is that the proposal addresses ordinary business

The Apple Board essentially concluded that because it has significant programs in place, and the board and management regularly discuss and address issues of environment and human rights, these have become matters of ordinary business. The Company's Supplemental Letter states:

The Board recognized that it had already considered the issues raised by the Proposal when setting the strategic direction of the Company and performing its duties as a Board. Moreover, the Board determined that the Company's ongoing practices and policies to minimize the businesses environmental impact, as well as the Company's ongoing disclosures related thereto, make these matters an integral part of the ordinary business operations of the Company, and the issues presented in the Proposal as a whole fit squarely within the Company's ordinary business mission to mitigate its environmental impacts with practices and policies that address energy sources, energy efficiency, resource conservation, and materials safety. The Board determined that the Company's strategy of reducing greenhouse gas emissions is a key component of the environmental strategy that is part of its ordinary business operations.

The Board determined that the Company's strategy of reducing greenhouse gas emissions is a key component of the environmental strategy that is part of its ordinary business operations. The Board also considered the Company's existing policies, practices, and disclosures and concluded that the Proposal, even if submitted to shareholders and approved, would not call for the Company to consider facts, issues or policies that the Company does not regularly consider in the course of its day-to-day operations, other than as described in the Initial Letter, and

therefore does not transcend the Company's ordinary business. ***The Board considered the fact that it, along with management, is regularly and actively involved in the consideration, oversight and re-assessment of the Company's environmental policies and practices.***

Based on the foregoing, the Board concluded that the Proposal does not transcend the Company's ordinary business or its day-to-day operations. Accordingly, while the Board is pleased that the Proponent's general interest in the Company's environmental strategy is fully aligned with that of the Company, the Board does not believe that the Proposal requires a vote of shareholders at the 2018 Annual Meeting of Shareholders.

This approach taken by the Board of Directors is legally inconsistent with the role and expertise of a board in the shareholder proposal process. If the Board has any role to play in determinations under Rule 14a-8(i)(7) it would be limited to finding that an issue is "insignificant" for the company. Moreover, we believe the Board has a fiduciary duty to encourage shareholder engagement on social and environmental issues through the shareholder proposal process, a duty contradicted by this reflexive attempt to find a means of excluding environmental and human rights proposals.

ii. Conducting a firm's ordinary business is not the same as "more or less substantially implementing"

Some of the Board's assertions regarding its integral environmental and human rights programs seems to convey something like a coarse version of substantial implementation -- that the Board considers similar policy issues and its day to day activities:

The Board also considered the Company's existing policies, practices, and disclosures and concluded that the Proposal, even if submitted to shareholders and approved, would not call for the Company to consider facts, issues or policies that the Company does not regularly consider in the course of its day-to-day operations, other than as described in the Initial Letter, and therefore does not transcend the Company's ordinary business. The Board considered the fact that it, along with management, is regularly and actively involved in the consideration, oversight and re-assessment of the Company's environmental policies and practices.

The Company's actions do not qualify as having fulfilled the essential purpose and guidelines of the Proposal to qualify for having substantially implemented the proposal pursuant to Rule 14a-8(i)(10), and thus the Board opinion here implies a much looser form of substantial implementation consideration -- one in which the fact the company Board considers similar issues should suffice to allow exclusion of a shareholder proposal. This would effectively negate Rule 14a-8(i)(10) as a functional rule, and it is logically and legally inconsistent to require a rigorous approach to substantial implementation in one section of the rules, and to allow an open ended exception to bar proposals for companies whose board has contemplated similar facts and issues generally.

iii. The Board of Directors is unable to find that the proposal subject matter is “insignificant” for the Company.

The Board of Directors did not, and could not, claim that the subject matter of the Proposal is insignificant. It is very significant indeed for Apple, both because of the Company's own greenhouse gas footprint and because the Company seeks to be a leader in regard to this issue.

For example, Apple has thrown its weight, together with other companies, behind the global climate agreements in both word and action. This was evident in 2014, when Apple signed a Climate Declaration with 140-plus leading California companies, reiterating calls for legislators to deliver ambitious action on climate change, supporting policies that would cut emissions and drive investment in clean tech, and highlighting its commitment to take action to address climate change and be a leader in building a low-carbon economy.¹⁹ Domestically, Apple's 2015 commitment to an \$850 million agreement to buy continuous power from a huge solar plant in California, under a 25-year contract -- the “largest-ever” such renewable energy investment at the time -- was lauded as a “visible and symbolic example of what's possible today for private sector companies to drive clean energy investments.”²⁰ And internationally, Apple has also taken major steps to “green” its supply chain, by working with its major suppliers to switch their operations to clean power sources, including by investing directly in renewable energy projects, installing 485 megawatts of solar and wind in six Chinese provinces, and planning to borrow \$1 billion to finance additional renewable energy and energy efficiency efforts.²¹

More recently, Apple joined the We Are Still In effort in 2017 that declares companies' and state and local governments' commitment to persisting in pursuing the goals of the global climate agreement.²²

Investors are being encouraged to invest in Apple as a safe bet on green energy. Articles urge, “Apple can inspire you to do better yourself and also make you feel good about investing,” because “They're all about the green,” “They have a hand in charity,” and “help employees have a hand in it, too.” “Is Apple More Responsible Than You? Why You Want to Invest.”²³ Apple is also starting to issue SRI bonds, or green bonds, a new occurrence for several major U.S. corporations (initially most green bond issuances came from government bodies), and was the largest U.S. corporate green bond issuer, with \$1.5 billion issued.²⁴

Visiting the Company website, we see that the company has gone out of its way to brand itself as an environmental leader – including on the issue of climate change and eliminating its carbon footprint:

¹⁹ Apple, eBay, GM, Intel Throw Weight Behind Climate Declaration,” BusinessGreen, Monday, March 3, 2014, greenbiz.com

²⁰ “Apple to Wal-Mart, Big Biz is Betting on Green Energy (Op-Ed)”, Lynn Scarlett, The Nature Conservancy, February 25, 2015.

²¹ “How Apple is moving its supply chain toward clean energy,” Heather Clancy, Thursday, June 29, 2017.

²² <https://www.wearestillin.com/we-are-still-declaration>.

²³ “Is Apple More Responsible Than You?: Why You Want to Invest,” Stash, November 17, 2016. <http://learn.stashinvest.com/apple-do-the-right-thing-corporate-responsibility-charity>

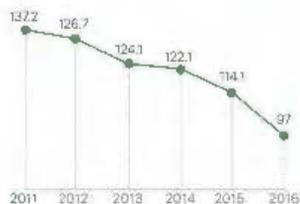
²⁴ “Green Bonds: A Surging Market for Socially Responsible Investing,” ThinkAdvisor, June 13, 2016. <http://www.thinkadvisor.com/2016/06/13/green-bonds-a-surging-market-for-socially-respons>



Climate Change

How can we lead the fight against climate change?

We mapped our carbon footprint, and we're working to eliminate it.



Carbon emissions per product (kg)

We've decreased carbon emissions per product every year since 2011.

When we measure our carbon footprint, we include hundreds of suppliers, millions of customers, and hundreds of millions of devices. And we're always looking for ways to make the biggest difference in five major areas: manufacturing, product use, facilities, transportation, and recycling.

To reduce our carbon footprint, we design each generation of our products to be as energy efficient as possible. We're sourcing lower-carbon materials to make our devices, we're partnering with suppliers to add clean energy to their facilities, and we produce and procure clean, renewable energy for 96 percent of the electricity used at our global facilities.

iv. The approach of the Board opinion would eliminate the role of the shareholder proposal process in collaborative corporate leadership.

Even companies that are recognized leaders benefit from and require continued engagement by shareholders. A company like Apple that builds a reputation as a "green" company, in part by the process of shareholder engagement that encourages the company to do so, also attracts investors who want to invest green. Company strategy is then inevitably subject to continued engagement and dialogue as shareholders monitor progress and file shareholder proposals as needed where they are not satisfied with the Company's policies or transparency.

It is fair to say that on many of the big picture issues of environmental leadership, the success of Apple in this arena due to the collaborative efforts of its share owners, board, and management. To cite another example in addition to those cited above, in 2006, the Company received a proposal from Domini Social Investment seeking a vendor code of conduct for its supply chain, and in a process of negotiation in exchange for withdrawal of the proposal, Apple agreed to establish workforce protections for its supply chain.

To conclude that these and many other collaborations between the management, board and shareholders, **highly contingent on the availability of the shareholder proposal process**, are no longer needed in advancing the best that Apple and other companies have to offer would be a tragic mistake. It would undermine the rights of investors, relationships with investors whose capital is backing the company and with whom the company has collaborated for years, as well as undermining the prospects and reputation of the Company.

In some instances, companies engaging in “leading” disclosure sometimes fail to share information that investors seek to form a complete picture of investment value and risk. This was true, for instance, in the sustainability reporting proposal example cited above.²⁵

The Company Supplemental Letter concludes:

A wide range of environmental groups have praised Apple for its leadership in developing and implementing innovative solutions to minimize waste and actually reduce greenhouse gas emissions. Apple has set a goal to run 100% of its worldwide operations on renewable energy and lead the way towards reducing carbon emissions from manufacturing — and it will do all it can to reach that goal as quickly as possible.

While it is clear that the Company is a pacesetter on greenhouse gas reduction in the tech sector, that does not mean that the pace the company is setting, and the signals it is sending to its supply chain and its transparency on timelines for completion, suffices to meet the global urgency of greenhouse gas reduction. Continued leadership by the company may well prove dependent on the shareholder proposal process, challenging the company to move beyond a vague *commitment to eliminate its carbon footprint as soon as possible* and toward transparency on a process of setting a specific timeframe reflective of the urgency and feasibility of the task.

II. THE NEXUS OF THE SUBJECT MATTER OF THE PROPOSAL IS CLEAR CUT.

A. Climate change and reducing greenhouse gases are a universal concern for companies.

From an investor protection standpoint, climate change probably has a nexus to all companies and every sector. As a global economic and environmental crisis, investors have a right and need to ensure that all companies in their portfolio are doing their part to keep pace with the demands for greenhouse gas reduction consistent with averting the worst possible global

²⁵ To cite a notorious example, Aetna, a major corporation in the health services industry, was considered a leader in disclosing political contributions due to its adoption of disclosure policies advocated by shareholders. Though the company disclosed thousands of dollars of contributions made to various politicians, it had concealed much larger donations to PACs and Trade Associations; this lack of disclosure of the “full picture” came out when Aetna accidentally revealed that the company had donated \$4.05 million to the Chamber of Commerce - far more than the \$100,000 in political contributions it had reported - and \$3 million to the conservative American Action Network in 2011. Aetna came under fire for its “dark money” donations in national news (“dark money” groups are politically active nonprofits, “dark” in the sense that they are able to shield the identity of their donors from public records), which may have had reputational impacts. “Never Mind Super PACs: How Big Business Is Buying the Election”, Lee Fang, Twitter, August 29, 2012. This led to a proposal at Aetna in 2013 seeking enhanced Board of Directors oversight of the company's political contributions policy.
https://www.sec.gov/Archives/edgar/data/1122304/000130817913000167/laetna_def14a.htm

climate catastrophe. As documented in our prior letter, the Staff has never concluded, and would be in error to conclude, that only “energy production and consumption” companies have a nexus to proposals seeking reduction in greenhouse gases. In so doing, it seeks to establish a very narrow approach to nexus in which only companies whose core business is in energy, for instance, would be appropriate recipients of clean energy related proposals. This would be a *radical* narrowing of prior Staff determinations. Quite to the contrary, and consistent with investment community interest, proposals relating to greenhouse gas tracking and reduction as well as regulatory and physical risks associated with climate change tend to be among the key ESG performance indicators for most sectors. Many investment strategies integrate obligations to monitor portfolio issues related to GHG's -- including the level of total GHG emissions, risks to the company associated with GHG's including regulatory risk as well as physical risks to property, and description of corporate strategies to reduce GHG's.

The Company Supplemental Letter citations on nexus neglect numerous Staff decisions cited in our first letter that have found climate change to be a significant policy issue with nexus to a wide array of sectors. Moreover, the SEC's Climate Guidance (Release Nos. 339106; 34-61469; FR-82, 2010) made it clear that the costs associated with changing demands for carbon reduction are widely relevant to many companies and sectors.

B. Apple has a particularly strong nexus to the issue due to its large greenhouse gas footprint, as well as its commitment of brand and resources to finding solutions to greenhouse gas emissions.

Apple, in particular, with emissions of 29.5 million metric tons of greenhouse gases, is a very substantial contributor to the global climate crisis, and so eliminating those emissions on a time limited basis has a clear nexus to the company. As noted above, this connection is even stronger because the Company has placed itself out front on the issue with resources, brand, and reputation.

According to the Company Supplemental Letter, the Proposal has merely an “incidental nexus to the company” as a result of the Company's “voluntary efforts” (commitments of strategy, resources, brand, and reputation) rather than as a result of its core business. The question posed by the Proposal in relation to this leadership is not a trivial difference from company's current practice. It is precisely because the Company is a pacesetter, a self-described leader for the tech sector on global greenhouse gas reduction, that the Proponent believes it is essential for investors to consider the need for the carbon reduction efforts to include a target date.

The fact that the Company has positioned itself as a pacesetter for progress in this area does not lessen investor interest in discussing important policy issues related to climate change, it only heightens it. The Company's substantial commitments of resources, leadership and reputation cannot be ignored as demonstrating a strategic connection of the issue to the company.²⁶

²⁶ Yet, later in the Board opinion section, the Company Supplemental Letter seeks to establish that Apple's environmental efforts are “integral.”

III. THE PROPOSAL DOES NOT ENGAGE IN MICROMANAGEMENT.

A. The Proposal's request for a clearly scoped net zero GHG strategy and timeline is not micromanagement.

The Company claims that carrying out the Proposal's requested action would divert limited resources that are being deployed in existing efforts.

As we have explained previously, the Proposal's proposed actions are intended to be additive to the existing company efforts. It is not that the Company's existing actions are pointing in the wrong direction, but rather that they have failed to set an estimated time of arrival, which the proponent believes to be inconsistent with the tech sector's strategy for going something within a fixed timeframe when it is viewed as a critical issue. So, the company's failure to even attempt to set a timeline for getting to net zero is sending mixed signals to investors, supply chain participants, and policymakers – perhaps the Company views this as an important issue but time is NOT of the essence?

As we noted in our prior letter, the courts have considered the question of broad differences regarding the timing of a corporate response to a critical social issue, and concluded that when investors seek a timeframe that is very different from the company's, that is not micromanagement. In *Roosevelt v. E.I. DuPont de Nemours & Company*, 958 F.2d 416 (D.C. Cir. 1992), Judge Ruth Bader Ginsburg confirmed that :

“Timing questions no doubt reflect “significant policy” when large differences are at stake. That would be the case, for example, if Du Pont projected a phase-out period extending into the new century. On the other hand, were Roosevelt seeking to move up Du Pont's target date by barely a season, the matter would appear much more of an “ordinary” than an extraordinary business judgment.”

B. Requesting a feasibility study is not micromanagement.

The Company Supplemental Letter also reasserts its idea that the work in preparing a report assessing feasibility is virtually identical with preparing a detailed plan. To the contrary, a feasibility study is a necessary first step in identifying whether a project is viable whatsoever, and therefore whether the project can move forward to a stage in which the company would *then* develop a detailed plan. The initial expenditure of a feasibility study should be a financially efficient review that will aid management in understanding the general scope of a project and how it and the broader situational context may affect the company in the future, thereby offering the company a first phase opportunity to identify whether a full-scale plan would be possible and appropriate for the company.

According to Investopedia:

A feasibility study is an analysis of how successfully a project can be completed, accounting for factors that affect it such as economic, technological, legal and scheduling factors. Project managers use feasibility studies to determine potential positive and negative outcomes of a project before investing a considerable amount of time and money into it.

A feasibility study tests the viability of an idea, a project or even a new business. The goal of a feasibility study is to place emphasis on potential problems that could occur if a project is pursued and determine if, after all significant factors are considered, the project should be pursued. Feasibility studies also allow a business to address where and how it will operate, potential obstacles, competition and the funding needed to get the business up and running.²⁷

In the present instance, there are various possible approaches to a feasibility assessment. The Company might, for instance, develop a set of categories of its suppliers and evaluate a set of assumptions regarding energy consumption and GHG emissions associated with those categories, and model or test assumptions regarding a small portion of suppliers within those categories. In contrast to a “plan,” it does not entail studying or testing the approach for every supplier.

Such a feasibility process would also provide the opportunity to identify whether it is likely, given the range of operations in its supply chain, that the company can eliminate its carbon footprint with its existing strategies, or whether other strategies such as negative emissions strategies would also need to be deployed.

Another approach could be for the Board of Directors to substantially implement the Proposal itself – to provide transparency to investors on its own deliberations and assessments and to issue a report that explains how and why the board has concluded it is not feasible or appropriate to set a target date for eliminating the firm’s carbon footprint. Notably, the Board of Directors has not done so but instead merely stated that it has considered the facts and circumstances related to such a question.²⁸

C. Focus on supply-chain is not micromanagement.

The Company asserts that its circumstances are different than those of companies receiving other net zero GHG proposals where the Staff found nexus and no excludability – PayPal and TJX. In those instances, the proposals did not require a focus on suppliers. The present Proposal requires addressing greenhouse gas emissions of Apple’s supply chain. Many proposals addressing supply chain relations on significant policy issues have been found not excludable under Rule 14a-8(i)(7). Apple is already effectively operating at this scale including with regards to interacting with its suppliers on energy issues and the proposal does not attempt to micromanage those relationships. Moreover, numerous proposals at Apple and elsewhere focusing on a significant policy issue related to supply chain relations and management have demonstrated that a focus on the supply chain does not constitute micromanagement. See, for instance, *Fossil, Inc.* (March 5, 2012).

Asking the company to explore setting a timeframe for completion of its carbon footprint elimination project -- even in relation to its supply chain -- is not micromanagement. It is in fact the opposite – a question of policy or macro-management. Is the company is

²⁷ <https://www.investopedia.com/terms/f/feasibility-study.asp#ixzz506siPMTQ>

²⁸ See discussion above regarding the board and “substantial implementation.”

communicating and working with its supply chain in a manner that treats the urgency of greenhouse gas reduction as a moonshot with a specific timeline for completion? As a policy proposal that allows shareholders to debate a major point of contention between investors and the board, this is not micromanagement. It is precisely the type of shareholder proposal that transcends ordinary business because it seeks to bring investors into the debate regarding corporate vision and strategy associated with a significant societal debate.

CONCLUSION

Based on the foregoing and our prior correspondence, we believe it is very clear that neither Apple management nor its Board have provided any basis for the conclusion that the Proposal is excludable from the 2018 proxy statement pursuant to Rule 14a-8. As such, we respectfully request that the Staff inform the company that it is denying the no action letter request. If you have any questions, please contact me at 413 549-7333 or sanfordlewis@strategiccounsel.net.

Sincerely,

Sanford Lewis

cc:

Christine Jantz

Gene D. Levoff

Apple Board of Directors
Arthur D. Levinson, Ph. D
James A. Bell
Tim Cook, CEO
Albert Gore Jr.
Robert A. Iger
Andrea Jung
Ronald D. Sugar, Ph. D
Susan L. Wagner

SANFORD J. LEWIS, ATTORNEY

October 31, 2017

Via electronic mail

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

Re: Shareholder Proposal to Apple Inc. Regarding Climate Change by Jantz Management LLC on behalf of Christine Jantz

Ladies and Gentlemen:

Christine Jantz (the "Proponent") is beneficial owner of common stock of Apple Inc. (the "Company") and has submitted a shareholder proposal (the "Proposal") to the Company. I have been asked by the Proponent to respond to the letter dated October 9, 2017 ("Company Letter") sent to the Securities and Exchange Commission by Gene D. Levoff, Associate General Counsel. In that letter, the Company contends that the Proposal may be excluded from the Company's 2018 proxy statement by virtue of Rule 14a-8(i)(7) and Rule 14a-8(i)(10).

I have reviewed the Proposal, as well as the Company Letter, and based upon the foregoing, as well as the relevant rules, it is my opinion that the Proposal must be included in the Company's 2018 proxy materials and that it is not excludable by virtue of those rules. A copy of this letter is being emailed concurrently to Gene D. Levoff.

SUMMARY

The Proposal asks the Board of Directors to prepare a report to shareholders to evaluate the potential for the Company to achieve net zero emissions of greenhouse gases by a fixed date. This request is grounded in the global scientific understanding that greenhouse gas (GHG) reduction requires a dramatic scaling up from current efforts. The Proposal requests that the Company evaluate a strategy to move beyond its current efforts and goals to determine whether it is possible to establish a timeframe for effectively eliminating GHG emissions all aspects of the business which are directly owned by the Company and major suppliers.

Company efforts on energy efficiency and renewable energy are laudable, and the Proposal asks the Company to take the next logical step, which the Proponent believes is to set a goal and timeframe to eliminate the Company's carbon footprint. This challenges the Company to exercise leadership in alignment with the global COP21 challenge, on a timeline consistent with global climate goals.

The Company asserts that the Proposal is excludable pursuant to Rule 14a-8(i)(7) as relating to ordinary business, but the Proposal is focused exclusively on the significant policy issue of climate change. The Company has made the issue of reducing climate change impacts a high-profile focus, establishing clear nexus. While the proponent's proposal submitted to the Company last year sought a plan to attain net zero GHG by 2030, and was found by the Staff to be excludable as micromanagement under Rule 14a-8(i)(7), the Proposal was revised prior to resubmitting for consistency with other proposals found by Staff to not micromanage: requesting a report assessing the feasibility of achieving net zero GHG by a fixed date. Thus, the Proposal addresses a significant policy issue with a nexus to the company and does not micromanage, and is therefore not excludable pursuant to Rule 14a-8(i)(7).

In addition, the Company asserts that it has already substantially implemented the Proposal, rendering it excludable under Rule 14a-8(i)(10). The essential purpose of the Proposal, entirely unfulfilled, is for the Company to report on the potential to achieve net zero emissions by a fixed date. While the Company's many activities and commitments are commendable, the Company has issued no publication that assesses a GHG reduction effort setting a fixed date for GHG reduction fully scaled to the entirety of Apple's GHG generation through its operations and those of its major suppliers. The Company's current efforts involve an effort to reduce its current carbon footprint for activities covered by the Proposal by approximately 20.8%.

THE PROPOSAL

The Proposal (included in its entirety as Appendix 1) states:

Resolved: Shareholders request that the Board of Directors to prepare a report to shareholders by December 31, 2019 that evaluates the potential for the Company to achieve, by a fixed date, "net-zero" emissions of greenhouse gases relative to operations directly owned by the Company and major suppliers. The report should be done at reasonable expense and may exclude confidential information.

BACKGROUND

Greenhouse gas emissions from human activities are the most significant driver of observed climate change since the mid-20th century. Not only is climate change happening, but year-by-year the weather is becoming more extreme. The pace at which climate change is happening is indicative of a global climate emergency. In 2015, 196 parties at the U.N. Climate Change Conference (COP21) agreed to limit climate change to an average global warming of 2 degrees Celsius above pre-industrial temperatures by 2050, with a further goal of limiting it to 1.5 degrees Celsius. Both of these ambitious goals are considered critical to heading off the most catastrophic effects of climate change and are inconsistent with projected growth in GHGs in the absence of effective intervention.

So far, most governments are far from adopting the regulatory actions at the pace needed to meet the 2050 goals. Following President Trump’s withdrawal from the Paris Agreement on June 1st of this year, the Secretary-General of the United Nations, António Guterres, expressed “confidence that cities, states and businesses within the United States — along with other countries — will continue to demonstrate vision and leadership by working for the low-carbon, resilient economic growth that will create quality jobs and markets for 21st century prosperity.”¹ This leaves it incumbent upon individuals and companies – investors, corporations, and civil society together – to do what they can to advance these goals. Given the role of technology in addressing the climate crisis, the Proponent believes that it may fall upon technology leaders like Apple to lead the way.

We appreciate Apple joining the “We Are Still In” initiative “pledg[ing] to support the Paris accord and ‘pursue ambitious climate goals,’ according to an open letter the campaign released.”² “We Are Still In is the broadest cross-section of the U.S. economy ever assembled in pursuit of climate action. Over 2,300 leaders strong and growing, We Are Still In shows the world that leaders from across America’s state houses, city halls, board rooms, and college campuses stand by the Paris Agreement and are committed to meeting its goals.”³

The 2050 COP21 goals are ambitious and will require the unleashing of extraordinary technological intelligence and leadership. To be a leader in helping the world meet those stringent goals of 2050 means that scaled action must be put into effect much earlier, creating models that can be replicated at needed scale worldwide. **Leadership** requires a focus on nearer term goals and timelines. For instance, Norway is aiming for net zero by 2030: “Norway’s parliament has agreed on a goal to cut the country’s net greenhouse gas emissions to zero by 2030, moving the target forward by 20 years, an official at the national assembly said on Tuesday.”⁴ And, Sweden has legally committed to reaching net-zero emissions by 2045.”⁵

Shareholders laud Apple for committing to “. . . power[ing] all its operations worldwide on 100 percent renewable energy,” and for joining the American Business Act on Climate Pledge. However, these goals do not include suppliers and manufacturing, nor has the Company set a timeframe for this goal.

77% of the Company’s 29.5 million metric tons of GHG emissions come from manufacturing including supply chain manufacturers. To secure the company’s leadership on climate issues, the Proposal calls for the Company to explore whether it can set a target date for achieving net-zero GHG emissions⁶ including from the major supply chain manufacturers.

¹ <https://www.nytimes.com/2017/06/01/world/europe/climate-paris-agreement-trump-china.html>

² <http://www.chicagotribune.com/news/nationworld/ct-paris-climate-agreement-tech-companies-20170605-story.html>

³ <https://www.wearestillin.com/us-action-climate-change-irreversible>

⁴ (<http://www.reuters.com/article/us-norway-climatechange-idUSKCN0YT1KM>)

⁵ <https://qz.com/1007833/swedens-climate-act-legally-commits-the-country-to-reach-net-zero-emissions-by-2045/>

⁶ https://images.apple.com/environment/pdf/Apple_Environmental_Responsibility_Report_2017.pdf

In sum, the approach taken by the Proposal is to encourage Apple to consider a next big step on leadership in this area -- net zero GHGs for its production chain -- securing its global profile and reputation as a sustainability leader.

ANALYSIS

I. The Proposal is not excludable under Rule 14a-8(i)(7) because it addresses a significant policy issue with a nexus to the Company and does not micromanage.

As the Company letter notes:

The Commission has stated that “proposals relating to [ordinary business] matters but focusing on sufficiently significant policy issues . . . generally would not be considered to be excludable.”⁷ Staff Legal Bulletin No. 14E (October 27, 2009) noted that, “On those cases in which a proposal's underlying subject matter transcends the day-to-day business matters of the company and raises policy issues so significant that it would be appropriate for a shareholder vote, the proposal generally will not be excludable under Rule 14-a8(i)(7) as long as a sufficient nexus exists between the nature of the proposal and the company.”

Staff Legal Bulletin 14H published in 2015 added that “a proposal may transcend a company’s ordinary business operations even if the significant policy issue relates to the “nitty-gritty of its core business.” Therefore, proposals that focus on a significant policy issue transcend a company’s ordinary business operations and are not excludable under Rule 14a-8(i)(7).”

Once a significant policy issue is identified and nexus is found, the only further ordinary business question is whether the Proposal micromanages the Company. In the present instance, the Proposal clearly addresses the significant policy issue of climate change, has a clear connection to the Company's business activities, and the Proposal does not micromanage the Company in asking the company to explore scaling up its GHG reduction to the full magnitude of the Company’s greenhouse gas generation.

A. The Proposal addresses a significant policy issue.

The Proposal is not excludable under Rule 14a-8(i)(7) because it directly focuses on a significant policy issue facing the Company: rapidly escalating global needs to eliminate greenhouse gas emissions in order to head off catastrophic climate change.

Prior Staff determinations have settled the question of whether matters pertaining to climate change and greenhouse gas emissions transcend ordinary business. See, e.g., *DTE Energy Company* (January 26, 2015), *J.B. Hunt Transport Services, Inc.* (January 12, 2015), *FirstEnergy Corp.* (March 4, 2015) (proposals not excludable as ordinary business because they focused on reducing greenhouse gas emissions GHG and did not seek to micromanage the company); *Dominion Resources* (February 27, 2014), *Devon Energy Corp.* (March 19, 2014), *PNC Financial Services Group, Inc.* (February 13,

⁷ 1998 Release.

2013), *Goldman Sachs Group, Inc.* (February 7, 2011) (proposals not excludable as ordinary business because they focused on significant policy issue of climate change); *NRG Inc.* (March 12, 2009) (proposal seeking carbon principles report not excludable as ordinary business); *Exxon Mobil Corp.* (March 23, 2007) (proposal asking board to adopt quantitative goals to reduce GHG emissions from the company's products and operations not excludable as ordinary business); *Exxon Mobil Corp.* (March 12, 2007) (proposal asking board to adopt policy significantly increasing renewable energy sourcing globally not excludable as ordinary business); *General Electric Co.* (January 31, 2007) (proposal asking board to prepare a global warming report not excludable as ordinary business).

B. The subject matter of the Proposal has a clear nexus to the Company.

The Company Letter asserts that there is a lack of nexus between the Company and the subject matter of the Proposal:

While the Proposal does invoke a significant policy issue, as was the case in *Apple 2016*, there is only an incidental nexus between the Proposal and the Company's business, which is not enough to overcome the significant level of micro-management of the Company's business the Proposal would entail.

However, the Staff decision in *Apple Inc.* (October 29, 2014) has already established that proposals focused on climate change and energy sources (renewable energy) have a nexus to the Company. In that instance, the proposal focused on the Company's increasing utilization of renewable energy sources and related risks.

As a leading technology company, the Proponent believes Apple should be a global role model and leader in illustrating how carbon reduction consistent with the demands posed by COP 21 can be accomplished. The Company is a large consumer of energy and therefore a large generator of GHG emissions. Its own publications on its website prominently document the magnitude of its GHG emissions and its challenges and efforts to attempt to address the issue. The Company's own website documents that climate change is a large policy problem that it must confront.

FROM APPLE WEBSITE:

Our comprehensive 2016 carbon footprint.

29,500,000

metric tons of greenhouse gas emissions



From Apple.com, accessed October 19, 2017. <https://www.apple.com/environment/>

The Apple website also expresses wishful thinking about progress in renewable energy in its supply chain. The site states " Can we get 100% of our supply chain to move to 100% renewable energy? We sure hope so."

**Can we get 100% of our
supply chain to move to
100% renewable energy?**

We sure hope so. As a start, we've committed to helping our suppliers bring 4 gigawatts of renewable power online by 2020.

In case you're wondering, that's 4 billion watts.

These materials taken from the Company's website document its prominent focus on its carbon footprint as well as its "hope" that its supply chain will eliminate its carbon footprint. Yet, notably lacking, from the Proponent's perspective, is a scaled up effort and ambition reduce those emissions to zero by any fixed date. What the Company communicates as a "hope" demonstrates the nexus of importance of the issue, but does not communicate the kind of commitment to accelerated pacing that would be on par with achieving net zero GHG on a timeframe that is in alignment with global needs as well as the Company's own technology leadership position.

C. The Proposal does not micromanage.

The Company asserts that the Proposal micromanages by seeking to impose a specific timeframe to implement complex policies to satisfy quantitative targets. The Company emphasizes the idea that its carbon footprint is complex, and that measuring and reducing that footprint requires inventive technical solutions which require the expertise of experts and management.

While the proposal submitted last year was found to be excludable under the micromanagement exclusion of Rule 14a-8(i)(7) in *Apple Inc.*, (December 5, 2016), the form of the current proposal was revised to avoid the micromanagement objection. In particular, instead of requesting a "feasible plan" to achieve net zero GHG by the specified date of 2030, the revised form of the Proposal simply requests that the company prepare a report assessing whether it is feasible to achieve net zero GHG by a fixed date of the company's choosing.

The 2016 proposal at Apple requested that the board generate a feasible plan for the company to reach a net-zero GHG emission status by the year 2030 for all aspects of the business which are directly owned by the company and major suppliers, including, but not limited to, manufacturing and distribution, research facilities, corporate offices and employee travel, and report the plan to shareholders. That proposal was found by the Staff to be excludable under Rule 14a-8(i)(7) as micromanagement. Subsequent to that Staff decision, however, proposals were filed at several companies scaling back the model of the proposal. These proposals were also challenged on the basis of micromanagement and found by the Staff **not to be excludable** on that basis. The non-excludable proposals had in common that instead of asking the company to prepare a plan to achieve net zero by a specific date, they focused on a report that only examined the feasibility of moving company policy in that direction. In *TJX, Inc.* (March 13, 2017), the proposal asked the company to evaluate the potential to achieve "by a fixed date" net zero greenhouse gases from parts of the business owned and operated by the company. In *PayPal Holdings, Inc.*, (March 23, 2017) the proposal asked the Board of Directors to prepare a report to shareholders that evaluates the feasibility of the Company achieving by 2030 "net-zero" emissions of greenhouse gases from parts of the business directly owned and operated by the company, including any executive and administrative offices, data centers, product development offices, fulfillment centers and customer service offices, as well as the feasibility of reducing other emissions associated with the Company's activities.

The Company Letter attempts to ignore these Staff determined distinctions and instead treated the Proposal as if the ask was materially unchanged. The letter notes:

The proposal the Proponent submitted last year asked the Company (1) to develop a plan to achieve the Proponent's arbitrary "net zero" goal (2) by a date specified by the Proponent and (3) prepare and publish a report detailing that plan. Similarly, the Proposal asks the Company (1) to evaluate the potential for achieving the Proponent's net-zero goal (2) by a date specified by the Company and (3) prepare and publish a report detailing the potential for achieving the net-zero goal. **Again, therefore, the Proponent seeks to have the Company develop a plan for achieving net-zero greenhouse gas emissions, which is a necessary precondition to evaluating the potential for implementing such a plan.** The Proposal also seeks, again, to require that the plan developed by management identify a date by which the goal might (or might not) realistically be achieved. [Emphasis added] Company Letter page 7.

While there might be a logical basis for saying that a look at feasibility is a necessary *precondition* for preparing a plan to achieve GHG reduction, these are very different tasks. Contrary to the Company's assertion, there is a significant difference between preparing a detailed plan, and making a preliminary assessment as to whether such a course of action is feasible. Last year's proposal presumed that the Company could issue a feasible plan to arrive at net zero by 2030. The current proposal does not.

Typical micromanagement issues are exemplified by *Marriott International Inc.* (March 17, 2010) wherein the proposal addressed minutia of operations – prescribing the flow limits on showerheads. In *Duke Energy Corporation* (February 16, 2001) the proposal attempted to set what were essentially regulatory limits on the company — 80% reduction in nitrogen oxide emissions from the company's coal-fired plant and limit of 0.15 lbs of nitrogen oxide per million British Thermal Units of heat input for each boiler – and was found excludable despite proposal's objective of addressing significant environmental policy issues.

By contrast, the lack of a specific timeline further distances the current proposal from those finding micromanagement. *E.I. DuPont de Nemours and Co.* (avail. March 8, 1991) in which the proposal sought to advance the Company's CFC phase-out deadline by one year. When that case was litigated, in *Roosevelt v. E.I. DuPont de Nemours & Company*, 958 F.2d 416 (D.C. Cir. 1992), the Appellate Court noted the difference between a micromanaging timeline and one that does not micromanage. Judge Ruth Bader Ginsburg, now a Supreme Court Justice, in the Circuit Court appeal, stated in the Roosevelt decision that:

“Timing questions no doubt reflect “significant policy” when large differences are at stake. That would be the case, for example, if Du Pont projected a phase-out period extending into the new century. On the other hand, were Roosevelt seeking to move up Du Pont’s target date by barely a season, the matter would appear much more of an “ordinary” than an extraordinary business judgment.” *Roosevelt v Dupont*, at 37.

In *Ford Motor Company* (March 2, 2004) the proposal outlined with extraordinary specificity the precise details sought in a scientific report regarding the existence of global warming or cooling. The proposal sought to prescribe the methods used for measuring and calculating climate change, even the means of measuring temperature increase, in a highly prescriptive way down to tiny increments and cost/benefits of climate change. Especially for a report that went beyond the company's core mission, asking for these tiny increments of detail rose to the level of micromanagement.

In contrast, the Staff has long agreed that proposals can and should contain reasonable levels of detail on relevant information that avoids micromanagement but also avoids vagueness. As one example, in *Exxon Mobil* (March 19, 2014) the Staff made it clear that it is not considered excludable micromanagement to request specifics in a report from a company, and to make technical aspects of such a report clear. The proposal in that instance sought a report to shareholders using quantitative indicators on the results of company policies and practices, above and beyond regulatory requirements, to minimize the adverse environmental and community impacts from the company's hydraulic fracturing operations associated with shale formations and that such report address, at a minimum, and on a regional basis or by each play in which the company operates:

- Percentage of wells using “green completions;”
- Methane leakage as a percentage of total production;
- Percentage of drilling residuals managed in closed-loop systems;
- Goals to eliminate the use of open pits for storage of drilling fluid and flowback water, with updates on progress;
- Goals and quantitative reporting on progress to reduce toxicity of drilling fluids;
- A system for managing naturally occurring radioactive materials;
- Numbers and categories of community complaints of alleged impacts, and their resolution;
- A systematic approach for reporting community concern statistics upward within the company.

In contrast, the present Proposal does not displace management decision-making, as it allows the Company to determine when, where, and how greenhouse gases will be eliminated; the current Proposal only seeks from the Company to explore whether it can set a goal that is consistent with the next frontier for the Company's carbon reduction measures in a world of ever-accelerating demands for greenhouse gas reduction.

The present Proposal most closely resembles the numerous proposals on climate change that have been found to **not be excludable** as related ordinary business or micromanaging, because they addressed key issues regarding strategic responses and goals on climate change. For instance, see *Chevron Inc.* (March 23, 2016), requesting that the company publish an annual assessment of long-term portfolio impacts of possible public climate change policies to the year 2035. *Dominion Resources Inc.* (February 11,

2014) requested the company adopt quantitative goals, taking into account International Panel on Climate Change guidance, for reducing total greenhouse gas emissions from the company's products and operations and report on its plans to achieve these goals. *Hess Inc.* (Feb. 29, 2016) requested that Hess prepare and publish a report disclosing the "financial risks to the Company of stranded assets related to climate change and associated demand reductions. The report should evaluate a range of stranded asset scenarios, such as scenarios in which 10, 20, 30, and 40 percent of the Company's oil reserves cannot be monetized" and "Provide a range of capital allocation strategies to address the growing potential of low-demand scenarios, including diversifying capital investment or returning capital to shareholders; Provide information on assumptions used in each scenario, including carbon price and crude oil price."

The Proposal does not necessitate intricate shareholder involvement in supplier relationships, but rather addresses supply chain accountability at a level consistent with prior non-excludable proposals.

The Company also argues that the Proposal micromanages because it directs attention to limiting impacts of the supply chain. However, a long series of Staff precedents have made it clear that a proposal addressing a significant policy issue focused on supply chain impacts, codes, or standards are not excludable as micromanagement. For example, in *Fossil, Inc.* (March 5, 2012) the Staff rejected an ordinary business exclusion on a proposal requesting that the company's board of directors issue a report describing the manufacturer's supply chain standards related to environmental impacts. In *Bob Evans Farms, Inc.* (June 6, 2011) the proposal encouraged the company's board to phase-in the use of cage-free eggs for its restaurants, so that they represent at least five percent of the company's total egg usage. The staff noted that the proposal focused on the significant policy issue of the humane treatment of animals and does not seek to micromanage the company to such a degree that exclusion of the proposal would be appropriate. Same result in *Wendy's Int'l., Inc.* (February 19, 2008) seeking report on the economic feasibility of purchasing, within 12 months, a certain percentage of eggs from free range hens. In *Wal-Mart Stores, Inc.* (March 29, 2011) the proposal requested that the company's board take the steps necessary to require that the company's suppliers publish annually an independently verifiable sustainability report, and the Staff rejected Rule 14a-8(i)(7) exclusion, noting the proposal focused on the significant policy issues of sustainability and human rights. In *Abercrombie & Fitch Co.* (April 12, 2010) the proposal requested that the company's board adopt and disclose a code of vendor conduct based on certain standards, establish an independent monitoring process, and prepare an annual report on adherence to the code. The Staff noted that the proposal focuses primarily on the significant policy issue of human rights and does not seek to micromanage the company to such a degree that exclusion of the proposal would be appropriate. In *McDonald's Corp.*, (March 22, 2007) the proposal urged the company's board to adopt, implement, and enforce a revised company-wide code of conduct inclusive of suppliers and sub-contractors based on the Int'l. Labor Organization's conventions, including four specific principles, and report on implementation and enforcement.

The current proposal is in line with these precedents. The Company exaggerates the level of shareholder or company involvement with supplier energy choices and sources that is necessitated by the Proposal to assess the feasibility of setting a zero GHG goal by a fixed date. In reality, all that is required from the management's standpoint is to know the level of emissions from the suppliers, projections by the suppliers of future energy reduction, and from that to identify target levels of GHG reductions needed either in the supply chain or via offsets elsewhere. Contrary to the Company Letter, in no way does the Proposal require a detailed report or Company intervention on supplier-level choices of processes, technologies, or materials.

Although it is possible that companies in its supply chain could accomplish GHG reduction as well as offsets as part of their contracting relationship with Apple, a less complex scenario would involve the Company creating or acquiring offsets elsewhere through tree planting and additional renewable energy projects. While the Company could choose to achieve GHG emissions reductions through detailed and complicated interactions with its suppliers, that would be the Company's choice, but is not contemplated or required by the Proposal.

The Proposal does not involve issues too complex for shareholders to understand and be able to weigh in on with advisory opinions. If Company management views the approach taken in the Proposal as inappropriate, the proper response under the circumstances is for the Company to describe its rationale in a statement in opposition in its proxy statement. Especially given the level of public and shareholder concern regarding climate change, it is certainly not beyond the capacity of shareholders to understand and weigh in reasonably on these issues.

Finally, it should be noted that the Proposal is unlike the proposal in *FirstEnergy Corp.* (March 8, 2013) which focused on increasing renewable energy resources but failed to focus on a significant policy issue.

The Proposal is consistent with and builds upon existing Company efforts. It is not in conflict with them.

The *Company Letter* notes that the management has determined that its resources will have the greatest effect on the environment by advancing projects that displace more polluting forms of energy with renewable sources and participating in renewable energy products that may not be developed without the Company's involvement. This translates to a principal focus on the Company's own operations rather than those of its suppliers.

Yet, the Company letter acknowledges that the *majority* of its carbon footprint comes from its supply chain rather than its own operations, and that it engages in some modest efforts to encourage suppliers to also address their carbon footprints:

“[W]hile also recognizing that the carbon footprint in the supply chain represents the majority of its comprehensive carbon footprint (77%), the Company is helping suppliers reduce their electricity consumption and switch to renewable energy.”

The Proposal's idea of setting a target date and a net zero goal literally picks up where those current activities leave off. The present Proposal essentially asks the company to assess the feasibility of doing more on a time-limited basis on the portion of greenhouse gas emissions that cannot be eliminated by implementing those renewable energy projects at its own facilities and considering the current trajectory of responsiveness by suppliers. As such, the Company need not alter existing decision-making, but the Proposal inquires as to whether the Company could scale up its efforts so that its GHG accomplishments account for and, by actions or accounting, eliminate the residual GHG emissions from manufacturing facilities that are not readily eliminated through its existing strategies.

The Company already generates the needed metrics. The Company has noted that it has, since fiscal year 2011, reduced the emissions from its facilities worldwide by over 1 million metric tons. In contrast, its reports indicate that, excluding product usage, the Company's carbon footprint is 29.5 million metric tons. The Proponent commends the Company for directly engaging with suppliers to assess their energy use with detailed energy audits; however this also demonstrates that the Company is already gathering the needed metrics that entail measurement of progress in the supply chain GHG reduction. The Proposal neither asks nor requires the Company to probe further into supply chain technologies or methodologies. Moreover, the data that the Company already gathers is sufficient to show a lack of substantial implementation – it shows that at least two thirds of the greenhouse gases currently generated by manufacturing of its products remain to be eliminated after current efforts that it has described.

Finally, it should be noted that the *entirety* of the Proposal addresses the significant policy issue of climate change and greenhouse gas reduction. Contrary to the Company's assertion that the environmental goals of the Proposal are secondary to the Proposal's effort to micromanage, the Proposal simply addresses a scaling up of the Company's responses to the level demanded by the current global climate emergency. The whereas clauses of the Proposal make it clear that the focus of the Proposal is on responsiveness to current climate related demands.

In sum, the Proposal does not micromanage and is not excludable as relating to the Company's ordinary business.

II. The Proposal is not Substantially Implemented.

In addition, the Company claims that it has substantially implemented the Proposal, that it has addressed each element of the Proposal as well as the essential objectives.

The Company has already substantially implemented the proposal because the Company's existing policies, practices and procedures “compare favorably with the guidelines” of the Proposal and achieve its essential objective. *Company Letter*.

The Company distorts the "essential objective of the proposal" – making it seem that the Proposal is simply about reducing and reporting on greenhouse gas emissions generated by the Company's operations. Instead, the Proposal is about scaling up the Company's efforts to where it would have a net zero GHG by a fixed date of the company's choosing. The Company's stated efforts and plans do not demonstrate that the Company has assessed setting a net zero GHG goal by a fixed date.

The Company's letter significantly downgrades the essential objectives of the proposal in order to find substantial implementation:

The essential objectives of the Proposal are the development and evaluation of a plan to significantly reduce the effects of greenhouse gas emissions generated by the Company's business and its major suppliers within a reasonably short time frame. The Company has already substantially implemented the Proposal's essential objective, and, as demonstrated in the 2017 Environmental Responsibility Report, has committed to a variety of environmental efforts, including developing a closed-loop supply chain and carefully studying materials to remove potentially harmful substances from products, that go beyond reducing the effects of greenhouse gas emissions. Company Letter, page 13.

The Company's reported actions neither meet the essential purpose nor compare with the guidelines of the Proposal. In the simplest terms, the Company Letter could not demonstrate substantial implementation because the plans outlined by the Company will only reduce the Company's GHG emissions by a modest percentage; a significant gap from the Proposal's requested goal of net zero GHG emissions. The Company seeks to illustrate its point by referring to an energy savings program that avoided 150,000 metric tons of CO₂e. While admirable, avoiding 150,000 metric tons of CO₂e is a "drop in the bucket" of the Company's 29.5 million metric tons of CO₂e in its comprehensive carbon footprint for 2016. An approximate 0.5% savings of CO₂e does not reach the level of scale sought by this Proposal. The Company's more ambitious commitment to "bring 4 gigawatts of renewable power online by 2020" is expected to result in an average of 6 million⁸ metric tons carbon avoidance per year which equates to only a **20.3% reduction in the Company's carbon footprint**. Furthermore, the additional renewable energy projects noted in the Company's letter are admirable but are not quantified and will likely not achieve the Proposal's sought-after goal of net zero GHG emissions because there are numerous other suppliers which will be continuing to emit GHGs.

In order to satisfy the Proposal's request, the Company would simply need to quantify the fourteen manufacturers committed to renewable energy by the end of 2018, reduce the Company's overall expected carbon footprint by that quantified amount, and determine the feasibility of seeking net zero GHGs for the remaining emissions that will be produced annually. While receiving renewable energy commitments from fourteen manufacturers will aid in the Company's overall GHG emissions reduction, the Company has at least 200 suppliers.⁹ Each major supplier or manufacturer that has not committed to

⁸ The Proponent is basing this estimation on the calculations provided by the Company in its November 15, 2016 letter to the SEC.

⁹ <https://images.apple.com/supplier-responsibility/pdf/Apple-Supplier-List.pdf>

100% renewable energy will continue to emit substantial amounts of GHGs into the atmosphere, keeping the Company from reaching net zero GHG emissions.

Despite the claim in the Company's letter, it is not the Proposal's aim to simply "significantly reduce the effects of greenhouse gas emissions" by an indefinite amount or with an undefined timeframe. The Proposal specifically seeks the feasibility of achieving a set goal (net zero greenhouse gas emissions) by a set timeframe (determined by the company). The Company's letter states that the only "difference in approaches is only a matter of implementation," however the Company has set no goal or fixed timeframe that can be identified as any version of net zero GHG or carbon neutral. The Company *would* be accurate if the Proponent were seeking a less specific goal such as a general GHG reduction goal, however the level of specificity in the Proposal distinguishes the current Proposal from other GHG-related proposals. The current Proposal specifies a requested goal of net zero GHG emissions based upon current expert recommendations. Experts increasingly believe that in order to avoid the most dangerous effects of global warming, the world must achieve net zero greenhouse gas (GHG) emissions as quickly as possible.¹⁰ A 2015 *Nature Climate Change* article emphasized that because the deployment of negative-emissions technologies will likely be limited due to any combination of the environmental, economic or energy constraints examined in the study, "Plan A" must be to reduce GHG emissions aggressively now.¹¹ The Proposal illustrates the dire need for the Company to set a time-bound goal of net zero greenhouse gas emissions, and therefore the Proposal's aim is far more specific than the Company describes.

Given that 77% of the Company's greenhouse gas emissions result from the manufacturing supply chain, it is clear that despite how commendable the Company's current reductions may be, the lion's share of the Company's GHG emissions have not been ameliorated, nor has the Company set in place a clear time-limited and appropriately scaled goal to reduce GHG emissions in its manufacturing chain. In fact, the Company admits that "Greenhouse gas emissions from the Company's facilities are now only 1% of its comprehensive carbon footprint."

Existing efforts and disclosures do not compare favorably with the guidelines of the proposal

The Company letter asserts that its existing efforts and disclosures compare favorably with the guidelines of the Proposal. However, review of those activities show that they are not at all consistent with or comparable to the guidelines.

For example, the Company Letter page 13 and 14 notes that its "2017 Environmental Responsibility Report outlines some of the environmental efforts the Company has undertaken, which 'compare favorably with the guidelines' of the Proposal. Among these efforts is a goal to power all of Apple's facilities worldwide with 100% renewable energy." Similarly, the reporting notes that the Company encourages suppliers

¹⁰ <https://phys.org/news/2015-12-aggressive-action-greenhouse-gas-emissions.html>

¹¹ <https://phys.org/news/2015-12-aggressive-action-greenhouse-gas-emissions.html>

to take steps to reduce the environmental impact of their operations, and actively engages with them to find ways they can reduce their energy use and purchase renewable energy, while benefiting financially.

Saliently, this reporting by the Company does not demonstrate that the Company has assessed the feasibility of achieving net zero GHG for its operations and those of its major suppliers by a fixed date. The Company has at best expressed a "hope" that its supply chain will move to 100% renewable energy -- a far cry from setting a target date and exploring a feasible strategy to make it happen.

In sum, the Proposal's requests are specifically about identifying whether it is feasible for the Company to scale up its GHG reduction plans to achieve a net zero GHG goal by a certain date. The Company's response indicates various projects aimed at a general reduction of GHGs, however those projects (even taken in sum) do not achieve the requested goal of net zero, nor is there a time-bound goal set in place. Therefore the Proposal cannot be said to be substantially implemented for purposes of Rule 14a-8(i)(10).

CONCLUSION

The Company has not demonstrated that the Proposal is excludible pursuant to Rule 14a-8(i)(7) Rule 14a-8(i)(10). Therefore, we request the Staff to advise the Company that it denies the no action request and that the Proposal must appear on the 2018 proxy.

Sincerely,



Sanford Lewis

cc: Gene Levoff
Christine Jantz

Net-Zero Greenhouse Gas Emissions

Whereas:

It is widely reported that greenhouse gases (GHGs) from human activities are the most significant driver of observed climate change since the mid-20th century;

In 2015, 196 parties at the U.N. Climate Change Conference agreed to limit climate change to an average global warming of 2 degrees Celsius above pre-industrial temperatures, with a goal of limiting it to 1.5 degrees Celsius;

Shareholders laud Apple for committing to “power[ing] all its operations worldwide on 100 percent renewable energy,” and for joining the American Business Act on Climate Pledge. However, these goals do not include suppliers and manufacturing;

Our company’s total carbon footprint is reported as 29.52 million metric tons CO₂e, with manufacturing accounting for 77% of those emissions. Apple publications imply that the company might *eventually* eliminate its carbon footprint, but there is no apparent timeframe or set of benchmarks for achieving such a goal;

Instead, the current focus is on the Company’s commitment to “bring 4 gigawatts of renewable power online by 2020.” This is expected to result in an average of 6 million metric tons carbon avoidance per year — 20% reduction in the manufacturing carbon footprint;

Similarly, the company reports that “seven major suppliers have pledged to power their Apple production entirely with renewable energy,” but the relative contribution of these supplier efforts toward the net zero goal is unquantified.

Resolved: Shareholders request that the Board of Directors to prepare a report to shareholders by December 31, 2019 that evaluates the potential for the Company to achieve, by a fixed date, “net-zero” emissions of greenhouse gases relative to operations directly owned by the Company and major suppliers. The report should be done at reasonable expense and may exclude confidential information.

Supporting Statement: While the scope of coverage would be in the management’s discretion, the proponent suggests that relevant operations could include executive and administrative offices, data centers, product development offices, fulfillment centers and customer service offices, suppliers, as well as transportation of goods and employees. “Net-zero greenhouse gas emissions status” can be defined as reduction of GHG

emissions attributed to company operations to a target annual level, and offsetting the remaining GHG emissions by negative emissions strategies that result in a documented reduction equal to or greater than the company's remaining GHG emissions during the same year. "Negative emissions solutions" are rigorously measured and tracked activities to displace polluting forms of energy production. Examples include tree-planting and technological solutions that draw carbon from the air. Such negative emissions solutions can be developed by a company or purchased as offsets. We recommend that the report consider the potential fixed dates of 2030, 2040, or 2050 for achieving net zero GHG.

ATTENTION FUND FIDUCIARIES: Mutual funds and institutions hold about 60% of Apple common stock. Leading investors include, among others, Vanguard, SPDR, iShares, Powershares, Fidelity, and T. Rowe Price. Your YES vote will promote Apple's reputation and sales.



**Rule 14a-8(i)(7)
Rule 14a-8(i)(12)(ii)**

November 20, 2017

VIA E-MAIL (shareholderproposals@sec.gov)

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

Re: Apple Inc.
Shareholder Proposal of Zevin Asset Management, LLC, on behalf of Eli Plenk

Dear Ladies and Gentlemen:

I am writing on behalf of Apple Inc. (the "**Company**") to supplement my letter dated October 9, 2017 relating to the proposal of Zevin Asset Management, LLC, on behalf of Eli Plenk (the "**Initial Letter**") requesting that the staff not recommend enforcement action to the Commission if the Company omits the Proposal from its 2018 Proxy Materials in reliance on Rule 14a-8(i)(12)(ii). The Company is writing this letter to request the staff's concurrence that the Company may exclude the Proposal from the Company's 2018 Proxy Materials for the additional reason that the Proposal is excludable under Rule 14a-8(i)(7).

In addition, on November 15, 2017, the Company received a letter from the Proponent (the "**Response**") responding to the Initial Letter. The Response argues that the Proposal should not be excluded pursuant to Rule 14a-8(i)(12)(ii) because the Proposal's "focus, means and scope" are materially different from the two Prior Proposals that were included in the Company's proxy materials within the preceding five calendar years. The Company argued in its Initial Letter that these two Prior Proposals dealt with substantially the same subject matter as the Proposal, and the most recently voted Prior Proposal only received 4.9% support, which is below the threshold necessary to permit resubmission of the Proposal. For the reasons discussed in the Initial Letter and below, we continue to believe that the Prior Proposals dealt with substantially the same subject matter as the Proposal, and that the Proposal is therefore excludable under Rule 14a-8(i)(12)(ii).

For ease of reference, capitalized terms used in this letter have the same meaning ascribed to them in the Initial Letter.

Apple
1 Infinite Loop
Cupertino, CA 95014

T 408 996-1010
F 408 996-0275
www.apple.com

BASES FOR EXCLUSION OF THE PROPOSAL

I. Rule 14a-8(i)(7) — The Proposal Relates to Matters of the Company's Ordinary Business

A. *The Exclusion*

Rule 14a-8(i)(7) permits a company to exclude a proposal that “deals with a matter relating to the company’s ordinary business operations.” The purpose of the exception is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting.” See Securities Exchange Act Release No. 34-40018 (May 21, 1998) (the “**1998 Release**”). In the 1998 Release, the Commission explained that the ordinary business exclusion rests on two central considerations: first, that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight”; and second, the degree to which the proposal attempts to “micromanage” a company by “probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.”

As explained in the 1998 Release, under the first consideration, a proposal that raises matters that are “so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight” may be excluded, unless the proposal raises policy issues that are sufficiently significant to transcend day-to-day business matters. On November 1, 2017, the Staff published Staff Legal Bulletin No. 14I (“**SLB 14I**”), which announced a new staff policy regarding the application of Rule 14a-8(i)(7). The staff stated in SLB No. 14I that the applicability of the significant policy exception “depends, in part, on the connection between the significant policy issue and the company’s business operations.” The staff noted further that whether a policy issue is of sufficient significance to a particular company to warrant exclusion of a proposal that touches upon that issue may involve a “difficult judgment call” which the company’s board of directors “is generally in a better position to determine,” at least in the first instance. A well-informed board, the staff said, exercising its fiduciary duty to oversee management and the strategic direction of the company, “is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote.”

Where the board concludes that the proposal does not raise a policy issue that transcends the company’s ordinary business operations, the staff said, the company’s letter notifying the staff of the company’s intention to exclude the proposal should set forth the board’s analysis of “the particular policy issue raised and its significance” and describe the “processes employed by the board to ensure that its conclusions are well-informed and well-reasoned.” Consistent with the staff’s guidance, the discussion below reflects the analysis of the Company’s board of directors (the “**Board**”) as well as management’s and includes a description of the Board’s processes in conducting its analysis.

B. Application of the Exclusion

The Proposal requests that the Compensation Committee of the Board (the "**Compensation Committee**") prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the chief executive officer under the Company's compensation incentive plans. The supporting statement indicates that the Proposal is particularly concerned with gender, racial and ethnic diversity among senior executives. And as explained in the Initial Letter, the principal thrust of the Proposal is diversity and not executive compensation.

The Company is Already Committed to Diversity and Sustainability

Diversity and sustainability are matters of the utmost importance, and the Board and management are regularly and actively involved in overseeing the Company's diversity and sustainability initiatives. Moreover, the Board and management firmly believe that having a diverse workforce is of fundamental importance to the Company's success. As explained in its Annual Report on Form 10-K for the year ended September 30, 2017, the Company's business strategy is to bring the best user experience to its customers through its innovative hardware, software and services. The Company believes deeply that diversity drives innovation, and therefore promoting diversity and inclusion, including at the senior executive level, is a fundamental element of the Company's ordinary business.

In this regard, the Company, including the Board and management, understands and embraces the importance of diversity and devotes substantial time to achieving and promoting diversity. In doing so, the Company has distinguished itself from its peers by making diversity and inclusion key elements of management concern. The Company has a global team, led by a senior member of the People organization, that is focused on Apple's efforts globally to ensure an inclusive culture that is representative and embracing of all walks of life and at all levels of the Company, including gender, racial, and ethnic diversity among senior executives. The Company is transparent about its efforts to foster an inclusive and diverse workforce, and reports progress and results on its website at apple.com/diversity.

Similarly, the Company is paving the way toward a more sustainable future. For example, environmental stewardship is of paramount importance to the Company, which is committed to using the same innovative approach to the environment as it does with its products. As detailed in the Company's 2017 Environmental Responsibility Report, the Company has committed to a variety of environmental efforts to, among other things, reduce its carbon footprint, switch to greener materials to create safer products and manufacturing processes, and protect natural resources. Further, as detailed in the Company's 2017 Supplier Responsibility Progress Report, the Company works to drive improved standards throughout its supply chain and to ensure that everyone is treated with the dignity and respect they deserve. As part of this effort, the Company encourages suppliers to reduce the environmental impact of their operations and is working with multiple major suppliers to help them transition to renewable energy use. To date, 14 major suppliers have committed to power their Apple production entirely with renewable energy by the end of 2019. Other partners across its supply

chain are also installing or investing in sizable solar projects, running their factories on wind power, and purchasing clean energy from reputable utility programs.

The Company has a dedicated Vice President for Environment, Policy, and Social Initiatives, who reports directly to the CEO. The Vice President drives the Company's work to reduce its impact on climate change by using renewable energy sources and driving energy efficiency in its products and facilities. The Company focuses on conserving precious resources and recently announced a goal to use only renewable or recycled materials in its products. The Company is also committed to using safer materials in its products and processes. The Vice President of Environment, Policy and Social Initiatives also drives the Company's work to make high-quality education more available to young people of diverse economic backgrounds, and to make high-technology products more accessible to people with disabilities. The Vice President also leads the Company's advocacy for government policies that protect individual privacy and civil rights. Appointing senior management to lead these initiatives and report directly to the CEO demonstrates that the issues are key concerns of management and are deeply embedded in the Company's day-to-day operations.

Because of the devotion of the Company's talented management team in pursuing the Company's mission to be the most innovative and diverse company and hold a leadership role on other important sustainability issues, the Company believes that the concerns raised by the Proposal are likewise the day-to-day concerns of the Company's management team. The Company's employment policies and practices at all levels of the Company's business focus on achieving diversity. Therefore, to the extent that the Proposal requests that the Company focus on achieving greater diversity among senior executive and other employees, the Proposal merely asks the Company to do what it already does every day. Sustainability, diversity and inclusion are an integral part of ordinary business at the Company. In view of the Company's focus, and its investment and ongoing efforts to achieve greater diversity and improve sustainability, the Proposal does not raise a "significant policy issue" that transcends the Company's ordinary business. To the contrary, the Board has analyzed the Proposal in the context of the Company's operations and existing policies, practices, and disclosures, including those policies currently under consideration by the Compensation Committee, has considered the Proposal's impact on the business and operations of the Company, and has determined that the issues presented by the Proposal fit squarely within the Company's ordinary business mission to be the most innovative and diverse company.

The Board Carefully Considered the Proposal in the Context of the Company's Day-to-Day Operations

In reviewing the Proposal, the Board participated in a discussion with the Company's Vice President of People, other members of senior management, and a Managing Partner of its independent outside compensation consultant. The discussion included a review of written materials prepared by the compensation consultant that included information about the prevalence and design of compensation programs that incorporate sustainability, diversity and inclusion performance metrics at the peer companies that the Compensation Committee considers for compensation comparison purposes. It also included a discussion of the specific issues raised by the Proposal and whether it is advisable to incorporate sustainability, diversity

and inclusion metrics into the Company's compensation programs in light of the Company's well-documented commitment to these issues. The Board undertook a thorough review of the Proposal, discussed the Proposal's implications for the Company's business and policies, and came to a consensus that it had received sufficient information from management and its advisers to make an informed decision about whether the Proposal raises a significant policy issue that transcends the Company's ordinary business.

The Board recognized that it had already considered the issues raised by the Proposal when setting the strategic direction of the Company and performing its duties as a Board. Moreover, the Board determined that senior executives' focus on reviewing, improving and implementing policies designed to promote sustainability, diversity and inclusion make these matters an integral part of the ordinary business operations of the Company, and the issues presented in the Proposal as a whole fit squarely within the Company's ordinary business mission to be the most innovative and diverse company. The Board also considered the Company's existing policies, practices, and disclosures and concluded that the Proposal, even if submitted to shareholders and approved, would not call for the Company to do materially more than it is already doing. The Board considered the fact that it, along with management, is regularly and actively involved in the consideration, oversight and re-assessment of the Company's policies designed to promote sustainability, diversity and inclusion.

Based on the foregoing, the Board concluded that the Proposal does not transcend the Company's ordinary business or its day-to-day operations. Accordingly, while the Board is pleased that the Proponent's interest in sustainability, diversity and inclusion are fully aligned with those of the Company, the Board does not believe that the Proposal requires a vote of shareholders at the 2018 Annual Meeting of Shareholders.

II. Rule 14a-8(i)(12)(ii) — The Proposal Deals With Substantially the Same Subject Matter as Two Proposals that Were Included in the Company Proxy Materials within the Preceding Five Calendar Years

As set forth in our Initial Letter, and for the additional reasons set forth below, the Proposal is also excludable under Rule 14a-8(i)(12)(ii). As explained in our Initial Letter, unlike the Prior Proposals, the Proposal does not expressly request an "accelerated recruitment policy" for diverse employees, but instead requests that the achievement of "sustainability metrics," including specifically "diversity among senior executives," be integrated into the performance measures upon which the chief executive officer's incentive compensation is based. Diversity is the only sustainability metric the Proposal singles out as a metric for the chief executive officer's incentive compensation.

The Proposal is Clearly Focused on Diversity, Not "Sustainability" or "CEO Compensation"

In its Response, the Proponent attempts to characterize the "defining issue" of the Proposal to be sustainability and CEO compensation and downplays the Proposal's primary focus on diversity, suggesting that the Proposal has a mere "overlap" in topic with "facial similarities" to the Prior Proposals but addresses different subject matters than the Prior Proposals. This characterization of the Proposal is misleading and disingenuous. As we

explained in our Initial Letter, the Proposal clearly focuses on the same subject as the Prior Proposals that failed—diversity at the Company’s senior leadership levels. Characterizing diversity as a “sustainability issue” and requesting that CEO compensation be based on sustainability/diversity metrics does not change the focus of the Proposal on diversity.

No shareholder will read the Proposal and consider it to be a vote on the chief executive officer’s compensation or on “sustainability.” The Proposal defines “sustainability” generically and broadly as “how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy.” The Proponent would have the staff believe that the Proposal is designed to encourage the Board to consider “a range of different sustainability metrics” that fit within this broad definition, a statement clearly belied by the fact that the only “sustainability” issue discussed in detail in the Proposal is diversity and inclusion. As set forth above under “I. Rule 14a-8(i)(7)—The Proposal Relates to Matters of the Company’s Ordinary Business,” the Board considered diversity and certain topics that arguably could fit within the Proponent’s ambiguous definition of “sustainability,” including environmental stewardship, in determining that the Proposal was also excludable as relating to matters of the Company’s ordinary business operations. But the Proposal’s ambiguous and generic definition of “sustainability” without specific examples does not provide shareholders or the Board with sufficient information to determine what exactly the Proposal is requesting. The Proponent clearly understands that, and therefore gives focus to the Proposal by providing a detailed discussion in the Proposal of diversity at the Company’s senior leadership levels and paying scant attention to other “sustainability” topics. The Proponent’s attempt to distinguish the Proposal from the Prior Proposals by noting that the Proposal raises an executive compensation issue as well as a sustainability issue is a red herring designed to distract from the fact that the Proposal is a repackaged diversity proposal. The Proposal refers to chief executive officer compensation only as a tool for achieving increased diversity at the Company. The primary goal of the Proposal is not to affect executive compensation but rather, like the Prior Proposals, to influence diversity policy at the Company.

As we explained in our Initial Letter, the staff has previously concurred that a proposal may be excluded under Rule 14a-8(i)(12) even though it may touch on topics that were not mentioned in a prior proposal so long as the prior proposal dealt with substantially the same subject matter. See, e.g., *Exxon Mobil Corp.* (Mar. 23, 2012) (concurring with exclusion of proposal requesting a policy on the company’s commitment to the human right to water as addressing the same substantive concern as a proposal that requested a report on, among other things, emissions and environmental impacts on “land, water and soil”); and *The Dow Chemical Co.* (Mar. 5, 2009) (concurring with exclusion of proposal requesting a report on the general health and environmental effects of a particular product as raising the same substantive concerns as a prior proposal requesting a report on the extent to which any company product caused or exacerbated asthma even though the later proposal focused on environmental concerns in addition to health concerns, and focused on a single product rather than the full universe of company products). These precedents demonstrate that whether a proposal deals with substantially the same subject matter as a prior proposal depends on whether the proposals’ core motivations, not each nuance or topic raised by the proposals, are identical.

The Proponents' Own Statements Confirm that it is a Diversity Proposal

The history of the Proposal demonstrates that the Proposal, like the Prior Proposals, is motivated (or "inspired") by concerns about diversity at the Company's senior management levels, not sustainability or executive compensation. As discussed in the Initial Letter, both of the Prior Proposals were submitted by Antonio Avian Maldonado, II, who also is a co-filer of the Proposal. As a quick internet search will reveal, Mr. Maldonado is a vocal public critic of the Company's diversity programs. After the 2017 Proposal did not receive the minimum 6% support of shareholders required to avoid exclusion of the Proposal under Rule 14a-8(i)(12)(ii) in connection with the 2018 Annual Meeting of Shareholders, the press reported that Mr. Maldonado expected to find a "loophole" and "a way around" exclusion under the rule "by being more specific about what a diversity initiative would entail" and quoted him as saying "It's not over. It's not down and out . . . This is just the beginning of a long battle."¹ In fact, Mr. Maldonado did not narrow or make the Proposal "more specific" than the Prior Proposals at all; he expanded the Proposal to refer to "sustainability" and executive compensation in an attempt to find an exclusion "loophole" under Rule 14a-8(i)(12)(ii). Mr. Maldonado's public statements since the Company's 2017 Annual Meeting of Shareholders indicate that he has maintained his focus on corporate diversity in general, and on directly engaging with Apple on diversity issues in particular. He describes himself in his brief biography on his Twitter page as a "proponent of corporate diversity."² On November 16, 2017, Mr. Maldonado tweeted about the findings of Apple's diversity report and noted "[The Company] has made very little progress on this, despite my many attempts to engage them. @Tim_Cook should stop ignoring my requests. #SMDH".³ In addition, Zevin Asset Management, the filer of the Proposal on behalf of Eli Plenk, retweeted a tweet by Open MIC, a non-profit organization that works to foster shareholder engagement with media and technology companies, expressing support for the idea of tying executive compensation to diversity (but not mentioning other sustainability metrics).⁴ Moreover, in an article on its website discussing the Proposal, Open MIC quoted Pat Miguel Tomaino, Associate Director of Socially Responsible Investing at Zevin Asset Management, as saying "The tech sector faces a diversity and inclusion crisis" and "Investors need to know that Apple has what it takes to recruit and retain talented and diverse workers. C-suite accountability is a critical step."⁵ Tellingly, Open MIC included no statements from Mr. Tomaino about sustainability. In this way, Messrs. Maldonado and Tomaino have acknowledged through their recent public statements expressing keen interest in diversity, with little or no attention paid to "sustainability," that the primary goal of the Proposal, much like the Prior Proposals that called for an "accelerated recruitment policy" for diverse employees, is to influence the Company's diversity policy and not to promote some other undefined "sustainability" mission.

¹ <https://www.theverge.com/2017/3/1/14781854/apple-shareholders-reject-diversity-proposal-for-second-year>
<https://forums.appleinsider.com/discussion/198960/apple-shareholders-again-reject-proposal-to-diversify-senior-management>

² <https://twitter.com/indigoblueusa>

³ <https://twitter.com/indigoblueusa/status/931668936789078016>

⁴ <https://twitter.com/ZevinAssetMgmt> (retweeting <https://twitter.com/openmicmedia/status/923643099544514561> on Oct. 26, 2017).

⁵ <https://www.openmic.org/news/2017/10/26/apple-snubs-investor-proposal-to-improve-diversity-at-company>

This clear and uniform focus on diversity to the exclusion of other “sustainability” issues by some of the Proposal’s most vocal filers indicates that the Proposal’s true focus is diversity, and that the references to sustainability and executive compensation are just an attempt to skirt exclusion based on Rule 14a-8(i)(12). Allowing a proponent to circumvent Rule 14a-8(i)(12) so easily, by re-characterizing a substantially identical proposal as falling under the umbrella of a broader policy (e.g., sustainability or executive compensation) would render the exclusion nearly meaningless. Such a reading of the rule would permit a proponent to submit a proposal, receive too little support to resubmit it at the next annual meeting, but nevertheless obtain another vote on the matter by proposing that the chief executive officer’s compensation be influenced by achievement of the objective—achieving “a way around” the exclusion.

The Subject Matter is Clearly the Same as the Prior Diversity Proposals

Finally, we agree with the Proponent that one of the guideposts used by the staff in determining whether two or more proposals deal with substantially the same subject matter should be “the motivation, function, and particular scope of” the proposals. Here, as suggested in the Initial Letter, the motivation, function and scope of the Proposal and both Prior Proposals are diversity at the Company’s senior leadership levels. In this way, the Proposal is markedly different from the proposals in the two Chevron Corp. no-action letters cited by the Proponent. In each of those two letters, the staff narrowly concluded that a proposal that requested that Chevron increase dividends and share buybacks in light of a growing potential for stranded assets (including as a result of climate change policy) did not deal with substantially the same subject matter as a proposal that requested a report on the business impacts or risks to the company from climate change or climate change policies and that did not mention stranded assets or capital distributions. See *Chevron Corp.* (avail. Mar 23, 2016) and *Chevron Corp.* (avail. Mar. 11, 2016).⁶

The Chevron letters each indicate that two proposals that address different climate change issues are not necessarily the same where they address different aspects of climate change and call for significantly different actions. The staff’s decisions in the two Chevron letters can be distinguished from the Proposal and the Prior Proposals as the two climate change proposals received by Chevron could each have a significantly different “motivation, function and scope” for the individual shareholder. A shareholder could logically vote against a proposal requesting a report on risks to the company from climate change but nevertheless support, for reasons entirely unrelated to environmental concerns, a proposal requesting increased dividends and buybacks. Unlike in the Chevron letters, no shareholder would view the primary goal of the Proposal to be anything other than an attempt to influence diversity policy at the Company. In addition, the Chevron letters decidedly do not stand for the

⁶ In its Response, the Proponent argues that the staff determined in the March 23, 2016 letter that two proposals at issue requesting reports on the business risks to the company from climate change or climate change policy did not deal with substantially the same subject matter because the earlier proposal requested a report “related to one particular scenario – that of peak oil demand.” In fact, none of the proposals requested a report on peak oil demand, although one of the proposals that requested increased dividends and buybacks mentioned the potential for peak oil demand. In addition, the staff explicitly said that it was expressing no position on whether two proposals at issue requesting climate change reports dealt with substantially the same subject matter.

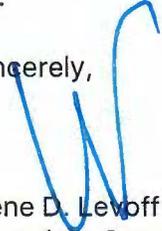
proposition that a proposal calling for a specific action becomes substantively different by calling for the same specific action in the name of sustainability, executive compensation, or any other topic. Here, in contrast to the Chevron letters, in which the allegedly similar proposal did not even mention stranded assets or dividends and buybacks, all three proposals not only mention diversity and inclusion, but clearly focus primarily on diversity and inclusion. According, the Proposal addresses the same subject matter as the Prior Proposals.

CONCLUSION

For the reasons discussed above, the Company believes that it may omit the Proposal from its 2018 Proxy Materials in reliance on Rule 14a-8(i)(7) and Rule 14a-8(i)(12)(ii). We respectfully request that the staff concur with the Company's view and confirm that it will not recommend enforcement action to the Commission if the Company excludes the Proposal from its 2018 Proxy Materials.

If you have any questions or need additional information, please feel free to contact me at (408) 974-6931 or by e-mail at glevoff@apple.com.

Sincerely,



Gene D. Levoff
Associate General Counsel,
Corporate Law

Attachments

cc: Pat Miguel Tomaino, Zevin Asset Management, LLC
Jeffery W. Perkins, Friends Fiduciary
Laura Campos, The Nathan Cummings Foundation
Antonio Avian Maldonado, II
Kelly Rogers, Employees' Retirement System of Rhode Island
Renaye Manley, SEIU Fund
Alan L. Dye, Hogan Lovells US LLP

Zevin Asset Management, LLC

PIONEERS IN SOCIALLY RESPONSIBLE INVESTING

November 15, 2017

Via E-Mail: shareholderproposals@sec.gov

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

Re: Apple Inc October 9, 2017 Request to Exclude Shareholder Proposal on Sustainability and CEO Compensation

Ladies and gentlemen:

This letter is submitted by Zevin Asset Management, LLC as the designated representative in this matter on behalf of Eli Plenk (hereinafter referred to as "Proponent"), who is the beneficial owner of 100 shares of stock of Apple Inc (hereinafter referred to as "Apple" or the "Company"), and who has submitted a shareholder proposal (hereinafter referred to as "the Proposal") to Apple, to respond to the letter dated October 9, 2017 sent to the Office of Chief Counsel by Apple, in which it contends that the Proposal may be excluded from the Company's 2018 proxy statement under Rule 14a-8(i)(12)(ii).

After reviewing the Company's letter and the relevant SEC rules as they apply to the Proposal, we have concluded that the Proposal must be included in Apple's 2018 proxy statement, because the Proposal's focus, means, and scope are materially different from other proposals voted at Apple in prior years. Moreover, this is sufficient to conclude that the Proposal at issue addresses different underlying concerns and different subject matter than prior proposals. Thus, the Company is not justified in excluding the Proposal on these grounds, and we respectfully request that the Staff not issue the no-action letter sought by the Company.

Pursuant to Staff Legal Bulletin 14D (November 7, 2008) we are filing our response via e-mail in lieu of paper copies and are providing a copy to Apple's Associate General Counsel Gene D. Levoff at glevoff@apple.com.

The Proposal

The Proposal, the full text of which is attached as Attachment A, reads as follows:

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company's compensation incentive plans. For the purposes of this proposal, "sustainability" is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and "diversity" refers to gender, racial, and ethnic diversity.

I. Rule 14a-8(i)(12)

Rule 14a-8(i)(12) permits companies to exclude shareholder proposals that deal with substantially the same subject matter as other proposals that have been included in a company's proxy materials at least

three times within the preceding five calendar years, subject to certain vote count requirements. The Staff has indicated that proposals sharing the same substantive concern can be said to deal with substantially the same subject matter.

Proposals need not be identical to allow companies to exclude them under Rule 14a-8(i)(12). However, it is not enough for companies seeking no-action relief to show that proposals merely address or mention similar topics. For example, in *Chevron Corp.* (Mar. 23, 2016), the Staff prohibited the exclusion of a shareholder proposal asking that company to publish a report on various climate change risk scenarios. In doing so, the Staff declined to concur in Chevron’s argument that the risk scenario report proposal had substantially the same subject matter as a prior proposal which also addressed climate change risk but asked for a specific report related to one particular scenario — that of peak oil demand. Similarly, in *Chevron Corp.* (Mar. 11, 2016), the Staff declined to concur that a 2016 resolution urging increased capital distributions to shareholders in response to climate change risks and the likelihood of stranded fossil fuel assets dealt with substantially the same subject matter as a 2011 proposal requesting a report on broad climate change concerns.

In both 2016 Chevron cases, there was some overlap between the proposals at issue and prior proposals: they mentioned and addressed some of the same concepts, risks, and scenarios. However, Chevron’s attempts to point at those (rather obvious) intersections were not enough to meet its burden of proof of showing that the proposals dealt with substantially the same subject matter. This was prefigured by prior decisions in which Staff upheld unique proposals despite some subject matter overlap. In *Mattel, Inc.* (Mar. 24, 2008) a proposal requesting a report on the "safety and the quality of [the registrant's] products as well as about the working conditions under which they are manufactured" was not substantially the same subject matter as a prior proposal that dealt only with working conditions. See also *Wal-Mart Stores, Inc.* (Apr. 3, 2002); *Wal-Mart Stores, Inc.* (Apr. 11, 2000); and, *Chris-Craft Industries, Inc.* (Feb. 12, 1997) — instances in which the Staff found that shareholder proposals concerning equal employment opportunity did not deal with substantially the same subject matter when they covered different portions of the registrant’s work force.

In short, facial similarities or intersecting elements do not amount to “substantially the same subject matter.” Indeed, at Chevron in 2016 and in the other cases noted above, it was similarly not enough for companies to show that unique proposals were animated by similar concerns or that they shared some of the same concerns. Unique shareholder proposals focused on long-term sustainable risk management will necessarily share certain concerns with other shareholder proposals. In such cases, the Staff has looked to the motivation, function, and particular scope of unique, new proposals. The Staff has also sought to understand how such new proposals would be received and interpreted by prospective shareholder voters if the measures were included in annual meeting ballots.

II. The current Proposal’s subject matter is focused on sustainability and CEO compensation.

The Proposal filed for Apple’s 2018 annual meeting of stockholders (see Attachment A below) asks the Company to consider ways to align its CEO compensation strategy with the successful management of long-term sustainability issues. The Proposal’s subject matter and substantial concern is this connection between long-term sustainability and executive compensation. This is clear throughout:

- The very first paragraphs of the Whereas section focus on benefits to companies of integrating “environmental, social, and governance (ESG) factors into business strategy.”

- The Whereas section also lists large and prominent peer companies that have “integrated sustainability metrics into executive pay incentive plans.” The recommendations and references in these introductory paragraphs necessarily and obviously include a very wide range of sustainability factors that can and have been tied to executive compensation — making it easy for prospective shareholder voters to understand the Proposal’s general focus on sustainability.
- Critically, the Resolved Clause focuses on “the feasibility of integrating sustainability metrics” (emphasis added) into Apple’s executive compensation determinations. The Proponent’s meaning of executive compensation determinations is made plain in the Resolved Clause: “the performance measures of the CEO under the Company’s compensation incentive plans.” This focuses the Proposal on the connection between sustainability management and compensation strategy/management incentives — a broad point of investor concern at Apple, which has not heretofore explicitly linked any sustainability metrics with CEO compensation.
- The Resolved Clause also deliberately defines sustainability as inclusive of a range of “environmental and social considerations, and related financial impacts.” This definition is prominent and capacious, indicating the Proposal’s predominant focus on sustainability management generally.

Apple has attempted to argue that references to diversity and inclusion issues in the Proposal exclusively define the Proposal’s subject matter and substantial concerns. This is not even supported by the language of the Proposal. Very clearly, in the third paragraph of the Whereas section, “diversity and inclusion” is offered as an example of the kinds of corporate sustainability issues that are relevant, indeed critical, in the technology sector. The Whereas section states that “diversity and inclusion are key components of long-term business sustainability and success” (emphasis added) and then elaborates on diversity and inclusion as an important issue facing the Company. Rather than exclusively defining “sustainability metrics,” this introduction and subsequent discussion illustrates the broader substantive concern of the Proposal: investors believe Apple’s compensation should be focused on key sustainability metrics, such as diversity and inclusion.

Neither does the discussion of diversity in the Resolved Clause constrain or exclusively define the focus of this Proposal. The reference to “diversity among senior executives” is also illustrative. Because the requested action of this Proposal is a “report assessing the feasibility of integrating sustainability metrics” into CEO compensation determinations, general sustainability management is the broad and primary focus of the Resolved Clause. Indeed, the Board Compensation Committee may study and report on the feasibility of integrating a range of different sustainability metrics into compensation analysis, or none of at all. In that process, the Compensation Committee may consider, adopt, or ignore diversity and inclusion issues — though investors believe that ignoring diversity and inclusion issues in that process would not be a logical outcome considering the magnitude of human capital, reputational, and legal risks that Apple faces in that area.

In any event, diversity and inclusion emerges as a likely area of study in the process contemplated by this Proposal. But it does not flow necessarily from the language of the Proposal. The Proposal’s request is clearly focused on a range of sustainability metrics. It would be plain to shareholder voters reading the Company’s 2018 ballot that (1) the Proposal is focused on a request to consider sustainability issues in executive compensation, and (2) diversity and inclusion is a particularly pressing policy issue facing Apple. Those conclusions are wholly reconcilable with each other, and the second does not overtake the first.

III. The current Proposal's subject matter differs significantly from prior proposals.

The prior proposals referenced by Apple do not address sustainability and CEO compensation as their subject matter or even their substantive concern. Both the proposal cited by Apple from the 2017 annual meeting and the proposal cited by Apple from the 2016 annual meeting “request that the Board of Directors adopt an accelerated recruitment policy requiring Apple...to increase the diversity of senior management and its board of directors.”

The prior proposals cited by Apple differ from the Proposal at issue in several important respects:

- Both prior resolutions propose a specific course of action, rather than a report as requested by the current Proposal.
- Both of the proposals cited by the Company focus on diversity to the exclusion of all other issues. No other issues — financial, sustainability oriented, or otherwise — are addressed by the prior proposals cited by Apple.
- Virtually all of the word count of the 2016 and 2017 proposals cited by the Company is devoted to diversity concerns. Thus, one expects that shareholder voters would naturally perceive that the substantial focus of those proposals was diversity. In contrast, the current Proposal devotes substantial word count to the defining issue of sustainability and CEO compensation, with diversity referenced as a particularly notable case in point flowing from the profile of Apple's business.
- The two prior proposals cited by Apple are unconcerned with matters of executive compensation. Nor are they concerned with corporate governance matters beyond the current composition of the Company's board of directors. In contrast, the current Proposal is animated by concerns over how sustainability risk is governed at Apple, specifically through executive compensation mechanisms.

As indicated above, if the current Proposal presents similar content to prior proposals, this is due to the fact that diversity and equity at Apple are in a particularly dire state. When, as the current Proposal notes, only five of Apple's top 107 executives are underrepresented minorities and widely-reported leaked e-mails reveal female Apple employees' experiences with sexism at the Company, diversity will necessarily arise as a key sustainability issue for the Company to consider in the course of a wider study on linking CEO compensation to a broad combination of sustainability metrics.

This accounts for some similarities between the proposals, but such similarities should be immaterial in the Staff's Rule 14a-8(i)(12) analysis. That is because the illustrative discussion of diversity in the current Proposal (described above) does not shift the substantial concern or core subject matter of the current Proposal. Past Staff decisions have drawn a line between superficial similarities or “overlapping” subject matter on one hand, and shared subject matter on the other hand.

As in the Chevron cases with overlapping climate change subject matter cited in Section I, the current Proposal remains distinct from prior proposals even though it mentions diversity. The focus of the current Proposal is so much broader than prior proposals as to be qualitatively different. In the Chevron cases above, the proposals at issue were not found to share the same subject matter with prior proposals. In each Chevron decision, this was due to a simple but important category distinction. In the March 23 Chevron decision, the proposal at issue asked for a report on a range of scenarios capacious enough as to focus that proposal on climate change risk generally. In contrast, the prior proposal in that case was read to focus on a single risk scenario. Similarly — but with the roles reversed — in the March 11 Chevron decision, the proposal at issue was narrowly focused on a board report on returning capital

to investors which might be at risk due to asset stranding. The prior proposal in that case focused on a much higher level, asking for a report on climate risk generally — thus contemplating the rest of the universe of climate change issues beyond asset stranding and capital return.

Here, Apple wants the Staff to see a gradient of scope among shareholder proposals that mention diversity. Instead, just as in the Chevron cases, there is a *difference in kind*. Prior proposals focused on one particular issue (diversity), and that issue is rightly read as a sustainability issue. But the current Proposal goes beyond diversity to address not only a few more sustainability issues but, indeed, the rest of the enormous contemplable universe of potential sustainability issues beyond diversity. Apple argues that the difference between proposals is a quantitative difference in scope, like the difference between the values “5” and “10.” On that contrary, however, because the current Proposal encourages consideration of the entire universe of sustainability metrics, the difference between proposals is not a difference in scope or gradient, but a difference in kind — more like the difference between “5” and “infinity.”

Thus, although the proposals cited by the company all mention diversity, the differences in approach, construction, verbiage, and broad concern are more than sufficient to keep their subject matter separate. If the Company contends that addressing diversity in the course of a broader argument about sustainability and CEO compensation makes diversity a core concern of the current Proposal, several past Staff decisions reject the notion that similar proposals with similar concerns are necessarily the same in their subject matter. These include *Cooper Industries, Inc.* (Jan. 14, 2002) wherein the Staff prohibited exclusion of a proposal requesting a sustainability report when an earlier proposal sought a report on the establishment of labor standards; *Mattel, Inc.* (Mar. 24, 2008), wherein the Staff prohibited exclusion of a proposal seeking a report on product safety and quality when the earlier proposal sought information on working and living conditions and both proposals requested data relative to workplace safety; and, *Loews Corporation* (Feb. 12, 1999), wherein the Staff prohibited the exclusion of a proposal that addressed a tobacco operations when the earlier proposal sought a policy to curtail teenage smoking of the company's products.

All of the above decisions involved proposals that shared substantial concerns with each other, but even small differences in scope or prescribed action were enough to overcome the facial similarities. Mere “overlap” should not mark proposals as being “the same.” This is even more important in cases like the Chevron decisions discussed above and the Proposal currently at issue.

With respect to the Chevron proposals, because “climate change” is such a massive, wide-ranging issue, one would expect a great deal of overlap between proposals responding to various distinct aspects of climate change. So, a phenomenon of *nominal overlap* develops; necessarily both proposals must mention the concept “climate change” — often repeatedly.

The same is true of the Proposal at issue. “Sustainability” is a wide-reaching concept referenced very frequently in its generality and in its particulars across the modern business world. Proposals that deal with sustainability generally (the current Proposal) and proposals that deal with narrow elements of sustainability (earlier Apple proposals) necessarily have a similar *nominal overlap* with each other. But that overlap — in light of common sense and prior Staff decisions — is clearly immaterial.

IV. The current Proposal aligns with freestanding investor interest in sustainability and compensation.

But if the Proposal at issue does not focus impermissibly on diversity (as the Company contends), on what then does it focus?

A. The current Proposal is inspired by prominent concern over sustainability and compensation at Apple.

The answer to that question lies in years of investor engagement with Apple focused on a wide range of sustainability issues, including a raft of prior shareholder proposals filed by investors of all stripes. Since 2010, Apple shareholders have submitted more than 11 shareholder proposals focused on sustainability or executive compensation which have come to votes at annual stockholder meetings, not including the Proposal at issue.

The frequency of shareholders proposal votes reflects keen investor interest in sustainability and executive compensation. And that measure is likely to be an underestimation of Apple investor activity around sustainability and executive compensation since the Company has successfully excluded various proposals over that time period. Throughout this period, many such proposals, such as resolutions requesting sustainability reporting and a board committee on human rights have garnered levels of support that enabled filing in successive years.

At the same time, Apple has responded to overwhelming pressure from investors and campaign groups to begin publishing annual reports on a range of sustainability issues, from e-waste to energy efficiency to supply chain labor standards. Apple's first sustainability report was published around 2006 and has since expanded to address a wide range of issues with varying levels of depth. The Company's offering now includes a dedicated sustainability website and an annual supplier responsibility report in addition to the main sustainability report. The advent and evolution of this reporting structure was a response to keen investor interest in sustainability management at Apple. It is also in keeping with intense public attention to the Company's other sustainability initiatives. In recent years, Apple's announcements of its decision to join the RE100 energy efficiency initiative¹, its hiring of former EPA Chief Lisa Jackson as Vice President of Sustainability Initiatives², and its decision to ban benzene and n-hexane from certain parts of its supply chain have all met with widespread attention and discussion.

The above confirms that sustainability and compensation issues were objects of widespread investor interest long before the current Proposal was submitted. The substantial concern of the Proposal flows naturally from this sustained well of investor interest. As the Proposal argues, linking executive compensation to a selection of sustainability metrics would improve attention to and governance of sustainability generally.

A reasonable shareholder voter in 2018 would rightly understand the "ask" in this Proposal to be a proposed tool to address issues which investors have read about in the news media over the last several years. However, rather than re-rehearsing the specific concerns of any prior shareholder proposals, the current Proposal constitutes a new attempt to improve the Company's governance and compensation arrangements in response to a range of sustainability issues.

¹ <https://www.apple.com/newsroom/2016/09/apple-joins-re100-announces-supplier-clean-energy-pledges/>

² <https://www.politico.com/story/2013/05/lisa-jackson-epa-apple-091971>

B. The current Proposal is inspired by a long-standing set of concerns across the markets.

The answer to the question “What inspires the Proposal at issue?” can also be found in a broad-based trend of shareholder activism engaging scores of prominent companies beyond Apple — all focused on linking executive compensation to sustainability metrics.

As the Proposal states, “a large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson.”

Research supporting linking executive compensation to sustainability metrics and investor interest in that process is well established:

- The 2016 Glass Lewis report *In-Depth: Linking Compensation to Sustainability* finds a “mounting body of research showing that firms that operate in a more responsible manner may perform better financially.... Moreover, these companies were also more likely to tie top executive incentives to sustainability metrics.”
- A 2015 Harvard Business School study of S&P 500 executives’ pay packages found a positive relationship between the presence of explicit incentive compensation for corporate social responsibility (CSR) and firms’ social performance (Hong, et al, 2015).
- A 2011 study of 490 global companies found that including sustainability targets in compensation packages was sufficient to encourage sustainable development. The increasing incorporation of sustainability metrics into executive pay evaluative criteria stems from the growing recognition that sustainability strategies can drive growth, and enhance profitability and shareholder value.

Most notably, the consensus of the global investment community has endorsed the practice of linking elements of sustainability or certain sustainability metrics to executive compensation assessments. This was clear in a 2012 guidance issued by the United Nations Principles for Responsible Investment and the UN Global Compact that found “the inclusion of appropriate Environmental, Social and Governance (ESG) issues within executive management goals and incentive schemes can be an important factor in the creation and protection of long-term shareholder value.”

This investor interest has manifested in a sustained series of shareholder proposals to US companies focused on linking sustainability metrics to executive compensation. According to Ceres, the respected coalition on companies and investors focused on long-term sustainability, at least 26 companies have received shareholder proposals on this matter since 2011. Numerous proposals have resulted in successfully negotiated settlements and significant shareholder votes, such as at Expeditors International of Washington and Walgreen Company in 2017 when proposals on this issue received investor support of 22 percent and 23 percent respectively.

In sum, there is ample evidence of sustainability advocacy at Apple, as well as a wider trend of investors raising sustainability and executive compensation throughout the markets. These twin currents combined to inspire the current Proposal, which seeks to extend and improve Apple’s handling of these issues.

The current Proposal is more appropriately seen as flowing from this well of prominent concerns rather than as an extension or a reprise of specific past proposals that were narrowly focused on diversity. Considering the phrasing of the current Proposal, the context at Apple, and the groundswell of interest

in sustainability and compensation across the markets, 2018 shareholder voters will most likely draw this conclusion, and the Company should not deprive them of the opportunity to be heard on such a matter.

V. Conclusion

In conclusion, we respectfully request the Staff to inform the Company that Rule 14a-8 requires a denial of the Company's no-action request.

The Proposal differs substantially in subject matter from prior proposals. To the extent that there are facial overlaps between the proposals discussed above, they are not material to this analysis. For these reasons, the Proposal is not excludable under Rule 14a-8.

Thank you for your consideration. In the event that the Staff should decide to concur with the Company and issue a no-action letter, we respectfully request the opportunity to speak with the Staff in advance. Please contact me at (617) 742-6666 or pat@zevin.com with any questions in connection with this matter, or if the Staff wishes any further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pat Miguel Tomaino', is written over a horizontal line.

Pat Miguel Tomaino
Associate Director of Socially Responsible Investing
Zevin Asset Management, LLC

cc: Gene D. Levoff, Apple Inc
Alan L. Dye, Hogan Lovells US LLP
Jeffery W. Perkins, Friends Fiduciary Corporation
Laura Campos, The Nathan Cummings Foundation
Antonia Avian Maldonado, II
Kelly Rogers, Employees' Retirement System of Rhode Island
Renaye, Manley, SEIU Fund

Attachment A: 2018 Proposal

WHEREAS: Numerous studies suggest that companies that integrate environmental, social, and governance (ESG) factors into business strategy reduce reputational, legal, and regulatory risks and improve long-term performance.

A large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson. Guidance issued by the United Nations Principles for Responsible Investment (2012) stated that including ESG factors in executive incentive schemes can help protect long-term shareholder value.

Diversity and inclusion are key components of long-term business sustainability and success:

- McKinsey & Company research shows that companies in the top quartiles for gender and racial/ethnic diversity were more likely to have above average financial returns (“Diversity Matters,” McKinsey, 2015).
- In a 2013 Catalyst report, diversity was positively associated with more customers, increased sales revenue, and greater relative profits.
- A 2016 study by Intel and Dalberg estimates the technology sector could generate \$300–\$370 billion in additional annual revenue if tech companies reflected the racial diversity of the talent pool.

Yet technology companies have not seized this opportunity. Underrepresented people of color hold just 9 percent of technical roles in the sector (Intel/Dalberg, 2016). Women hold 36 percent of entry level tech jobs and just 19 percent of C-Suite positions (“Women in the Workplace,” McKinsey, 2016).

The tech diversity crisis creates challenges for talent acquisition and retention, product development, and customer service. In 2016, widely-reported leaked emails detailed women employees’ experiences of sexism at Apple (*Mic*, September 2016). Apple has also faced claims of racial discrimination in retail.

Our Company has taken steps to address diversity. However, current disclosures reveal that Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple’s top 107 executives were underrepresented people of color.

Apple says it strives to “better represent the communities we’re part of” and “break down historical barriers in tech.” Tim Cook has said that diversity is economically essential (*Auburn Plainsman*, April 2017) and “there is a definite diversity issue in tech, in particular in coding and computer scientists” (*New York Times*, August 2017).

Investors seek clarity regarding how Apple is driving improvement on diversity and how that strategy is supported by C-Suite accountability. Integrating diversity metrics into executive compensation assessments would enhance Apple’s approach to a challenge that it has declared mission-critical.

Peers (e.g. Microsoft, Intel, IBM) have set diversity goals and begun tying parts of executive pay to such goals.

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company’s compensation incentive plans. For the purposes of this proposal, “sustainability” is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and “diversity” refers to gender, racial, and ethnic diversity.



Rule 14a-8(i)(12)

October 9, 2017

VIA E-MAIL (shareholderproposals@sec.gov)

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

Re: Apple Inc.
Shareholder Proposal of Zevin Asset Management, LLC, on behalf of Eli Plenk

Dear Ladies and Gentlemen:

Apple Inc., a California corporation (the “**Company**”), hereby requests confirmation that the staff of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the “**Commission**”) will not recommend enforcement action to the Commission if, in reliance on Rule 14a-8(i)(12) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), the Company omits the enclosed shareholder proposal (the “**Proposal**”) and its accompanying supporting statement (the “**Supporting Statement**”) submitted by Zevin Asset Management, LLC, on behalf of Eli Plenk (the “**Proponent**”) and co-filed by Antonio Avian Maldonado, II, Friends Fiduciary Corporation, Nathan Cummings Foundation, the Employees’ Retirement System of Rhode Island and the SEIU Fund, from the Company’s proxy materials for its 2018 Annual Meeting of Shareholders (the “**2018 Proxy Materials**”) on the grounds that the Proposal deals with substantially the same subject matter as at least two other proposals that were included in the Company’s proxy materials within the last five calendar years and that did not receive the support necessary for resubmission.

A copy of the Proposal, together with other correspondence relating to the Proposal, is attached hereto as Exhibit A.

In accordance with Staff Legal Bulletin No. 14D (November 7, 2008) (“**SLB No. 14D**”), this submission is being delivered by e-mail to shareholderproposals@sec.gov. Pursuant to Rule 14a-8(j), a copy of this submission also is being sent to the Proponent. Rule 14a-8(k) and SLB No. 14D provide that a shareholder proponent is required to send to the Company a copy of any correspondence which the proponent elects to submit to the Commission or the staff. Accordingly, we hereby inform the Proponent that, if the Proponent elects to submit additional correspondence to the Commission or the staff relating to the Proposal, the Proponent should concurrently furnish a copy of that correspondence to the undersigned.

Pursuant to the guidance provided in Section F of Staff Legal Bulletin 14F (October 18, 2011), we ask that the staff provide its response to this request to the undersigned via e-mail at the address noted in the last paragraph of this letter.

The Company intends to file its definitive 2018 Proxy Materials with the Commission more than 80 days after the date of this letter.

THE PROPOSAL

The Proposal requests that the Company's shareholders approve the following:

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company's compensation incentive plans.

For the purposes of this proposal, "sustainability" is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and "diversity" refers to gender, racial, and ethnic diversity.

BASIS FOR EXCLUSION OF THE PROPOSAL

We request that the staff concur that the Company may exclude the Proposal pursuant to Rule 14a-8(i)(12)(ii) because the Proposal deals with substantially the same subject matter as at least two other proposals that were included in the Company's proxy materials within the last five calendar years and that did not receive the support necessary for resubmission.

A. Rule 14a-8(i)(12)(ii)

Rule 14a-8(i)(12)(ii) permits a company to omit a shareholder proposal from its proxy materials if it 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" and the most recent proposal received "[l]ess than 6% of the vote on its last submission to shareholders if proposed twice within the preceding 5 calendar years."

The condition in Rule 14a-8(i)(12) that the prior shareholder proposals have dealt with "substantially the same subject matter" as the current proposal does not mean that the prior proposals and the current proposal must be exactly the same. At one time, the predecessor to Rule 14a-8(i)(12) provided that, to be excludable under the rule, the current proposal had to be "substantially the same proposal" as the prior proposals. In 1983, however, the Commission amended the rule to permit exclusion of a proposal that "deals with substantially the same subject matter." The Commission explained the reason and meaning of the revision in Exchange Act Release No. 20091 (Aug. 16, 1983), stating:

The Commission believes that this change is necessary to signal a clean break from the strict interpretive position applied to the existing provision. The Commission is aware that the interpretation of the new provision will continue to involve difficult subjective

judgments, but anticipates that those judgments will be based upon a consideration of the substantive concerns raised by a proposal rather than the specific language or actions proposed to deal with those concerns.

When considering whether proposals deal with substantially the same subject matter, the staff has focused on the “substantive concerns” raised by the proposals rather than on the specific language of the proposals or corporate action proposed to be taken. Accordingly, the staff has concurred with the exclusion of a shareholder proposal under Rule 14a-8(i)(12) when the proposal addresses concerns that are similar to those underlying a prior proposal, even if the current proposal recommends a significantly different action than was recommended by the prior proposal. For example, in *Bristol-Myers Squibb* (Feb. 6, 1996), the staff concurred that a proposal requesting that the company educate women on the possible abortifacient effects of certain of its products was excludable because it addressed the same substantive concern as a prior proposal that requested the company refrain from donating to abortion-supporting organizations. While the actions requested by the two proposals were significantly different (consumer education on specific company products in one case and ceasing support for particular charitable organizations, without a direct connection to company product offerings, in the other), both proposals sought, broadly but in significantly different ways, to influence the company’s participation in the national abortion debate. Similarly, in *The Coca-Cola Co.* (Jan. 18, 2017), the staff concurred that a proposal requesting a report identifying the number of Israel/Palestine employees who were Arab and non-Arab, broken down by job category, addressed the same substantive concern as a prior proposal requesting that the company implement a set of “Holy Land” equal employment principles that went significantly beyond a report on worker demographics by addressing employment culture, training programs, hiring criteria, tax incentives, compliance monitoring and other principles. See also *General Electric Co.* (Feb. 6, 2014) (concurring with exclusion of proposal seeking to amend nuclear energy policy to make specific safety improvements as dealing with the same substantive concern as an earlier proposal that sought the company’s phase out of all nuclear activities); *Barr Pharmaceuticals, Inc.* (Sept. 25, 2006) (concurring with exclusion of a proposal requesting adoption of an animal welfare policy to reduce the number of research animals and implement acceptable standards of care because it was substantially similar to a prior proposal requesting that the company commit to non-animal testing methods and petition government agencies to accept the results of such tests); *Medtronic Inc.* (Jun. 2, 2005) (concurring that a proposal requesting that the company list all of its political and charitable contributions on its website was excludable as it dealt with substantially the same subject matter as a prior proposal requesting that the company cease making charitable contributions); *Saks Inc.* (Mar. 1, 2004) (concurring that a proposal requesting the company’s board of directors implement a code of conduct based on International Labor Organization standards as well as establish an independent monitoring process and annually report on adherence to such code was excludable as addressing substantially the same subject matter as a prior proposal requesting a report on the company’s vendor labor standards and compliance mechanism); and *Bristol-Myers Squibb Co.* (Feb. 11, 2004) (concurring with exclusion of a proposal requesting the board of directors to review pricing and marketing policies and prepare a report on how the company would respond to pressure to increase access to prescription drugs as it dealt with substantially the same subject matter as a prior proposal requesting the creation and implementation of a policy of price restraint on pharmaceutical products).

The staff has also concurred that a shareholder proposal may still be excludable under Rule 14a-8(i)(12) even if it touches on different topics from a submission from a prior year so long as the earlier proposal deals with substantially the same subject matter. For example, in *The Dow Chemical Co.* (Mar. 5, 2009), the staff concurred that a proposal requesting a report on the general health and environmental effects of a particular product was excludable as raising the same substantive concerns as a prior proposal requesting a report on the extent to which any company product caused or exacerbated asthma. Even though the later proposal focused on environmental concerns in addition to health concerns, and focused on a single product rather than the full universe of company products, both proposals broadly addressed the human welfare consequences of company products. Similarly, in *Hormel Foods Corp.* (Nov. 10, 2011), the staff concurred that a proposal asking the company to adopt a series of animal welfare improvements, including a ban on electric shock devices, installation of cameras in all animal areas, improved training for supervisors, a phase-out of gestation crates, and implementation of annual audits of these standards, was excludable under Rule 14a-8(i)(12) because it addressed the same substantive concern as a prior shareholder proposal that requested only a report on the company's use of gestation crates. See also *Ford Motor Co.* (Feb. 28, 2007) (concurring with exclusion of proposal requesting that executive compensation be tied to efficiency improvements as addressing substantially the same concern as a prior proposal requesting that executive compensation be tied to a reduction in greenhouse gas emissions, even though the later proposal addressed dependence on foreign oil and the prior proposal focused on greenhouse gas and related concerns); and *Exxon Mobil Corp.* (Mar. 23, 2012) (concurring with exclusion of proposal requesting a policy on the company's commitment to the human right to water as addressing the same substantive concern as a proposal that requested a report on, among other things, emissions and environmental impacts on "land, water and soil").

B. The Proposal Deals With Substantially the Same Subject Matter as Two Proposals that were Included in the Company Proxy Materials Within the Preceding Five Calendar Years

The Company has, within the past five years, included in its proxy materials at least two shareholder proposals that raise the same substantive concerns and relate to "substantially the same subject matter" as the Proposal, namely increasing diversity in the Company's leadership. Both of the following proposals were submitted to the Company by Antonio Avian Maldonado, II, who is one of the co-filers of the Proposal:

- The Company included in its 2017 proxy materials, filed with the SEC on January 6, 2017 (the "**2017 Proposal**," attached hereto as Exhibit B), Mr. Maldonado's proposal that the Company's Board of Directors (the "**Board**") "adopt an accelerated recruitment policy requiring [Apple] to increase the diversity of senior management and its board of directors, two bodies that presently fail to adequately represent diversity and inclusion (particularly Hispanic, African American, Native American and other people of color)."
- The Company included in its 2016 proxy materials, filed with the SEC on January 6, 2016 (the "**2016 Proposal**," attached hereto as Exhibit C, and, together with

the 2017 Proposal, the “**Prior Proposals**”), a virtually identical proposal that the Board “adopt an accelerated recruitment policy requiring [Apple] to increase the diversity of senior management and its board of directors, two bodies that presently fails [sic] to adequately represent diversity (*particularly* Hispanic, African-American, Native-American and other people of colour).”

The Prior Proposals are virtually identical to one another and request the same action—accelerated recruitment of persons of color at the senior management and Board levels. The Proposal does not expressly request an “accelerated recruitment policy,” but instead requests that the achievement of “sustainability metrics,” including specifically “diversity among senior executives,” be integrated into the performance measures upon which the chief executive officer’s incentive compensation is based. Diversity is the only sustainability metric the proposal singles out as a mandatory metric for the chief executive officer’s incentive compensation. The Proposal clearly, therefore, addresses the same substantive concern as the Prior Proposals—diversity at the Company’s senior leadership levels.

That the Proposal and the Prior Proposals share a singular focus on diversity at the senior management level is evident from the following:

- While the Proposal is couched as a recommendation that the Board include “sustainability metrics” in the performance criteria that determine CEO compensation, the only sustainability metric the Proposal directs the Board to include is diversity of senior management. The Proposal’s sustainability metrics are merely a different tool, as compared to an accelerated recruitment policy, for achieving the same objective. In addition, the Supporting Statement links the topics of “sustainability” and diversity by noting that “[d]iversity and inclusion are key components of long-term business sustainability and success.”
- The shareholder who submitted both of the Prior Proposals (Mr. Maldonado), which focus solely on diversity, is one of the co-filers of the Proposal. Mr. Maldonado has been widely quoted in the press as having a goal of increasing diversity at the Company.¹
- Both the Proposal and the 2017 Proposal cite McKinsey & Company studies finding that diversity leads to improved corporate results. In addition, the supporting statements for the Proposal and both Prior Proposals focus on the benefits of diversity as support for the requested actions, stating that increased diversity increases long-term shareholder value and reduces reputational, legal and regulatory risks;
- Both Prior Proposals and the Proposal cite the Company’s own statements noting the benefits of a more diverse company; and

¹ <https://www.theverge.com/2017/2/15/14614740/apple-shareholder-diversity-proposal-opposition>; <https://www.usatoday.com/story/tech/columnist/2017/02/27/shareholder-calls-on-apple-to-fix-diversity-senior-management-board-tony-maldonado/98196276/>.

- Both Prior Proposals and the Proposal focus their supporting statements on increased racial diversity, while also touching on gender diversity. The Proposal includes an express reference to gender diversity in its resolution and cites statistics regarding women in technology jobs, while the Prior Proposals note the Company's statements regarding its desire to seek highly qualified women Board candidates.

As further evidence that the Proposal's focus is on diversity, not "sustainability" in a broader sense (despite the Proposal's definition of sustainability as "environmental and social considerations and their related financial impacts"), the Supporting Statement contains, by our count, 421 words, but only the first four sentences, consisting of 90 words, address sustainability, and even those sentences refer to sustainability in only a very general way (and, notably, the fourth sentence defines "sustainability" to include diversity by noting that "[d]iversity and inclusion are key components of long-term business sustainability and success."). The rest of the Supporting Statement (331 words) includes detailed and specific statements in support of increased diversity, including specific references to the Company's own track record in achieving diversity and the Company's own statements regarding diversity. As demonstrated by the *Hormel Foods*, *Dow Chemical*, *Ford Motor Company* and *Exxon Mobil* letters cited above, a proposal is excludable under Rule 14a-8(i)(12) even though it may touch on topics that were not mentioned in a prior proposal so long as the prior proposal dealt with substantially the same subject matter. In this case, the limited references to sustainability in the Proposal do not change the fact that the clear focus and substantive motivation of the Proposal, when read together with the Supporting Statement, is increased diversity in the Company's leadership.

The fact that the Prior Proposals requested that the Board take a specified action to recruit more diverse senior management, while the Proposal asks only that the Board issue a report assessing the feasibility of achieving greater diversity, does not mean that the Proposal is not excludable as raising the same substantive concern as the Prior Proposals for purposes of Rule 14a-8(i)(12). The staff has routinely allowed exclusion of a proposal requesting a report addressing a particular subject matter where a prior proposal requested a specific action relating to the same subject matter. See, e.g., *Coca-Cola Co.* (Jan. 18, 2017) (discussed above); *Tyson Foods, Inc.* (Oct. 22, 2010) (concurring with exclusion of a proposal requesting a report detailing the company's progress on moving away from purchasing pigs that were bred using gestation crates as it dealt with substantially the same subject matter as a prior proposal requesting that the company phase out the use of pig gestation crates in its supply chain); and *Abbott Laboratories* (Feb. 5, 2007) (concurring with exclusion of a proposal requesting a report on the feasibility of using non-animal methods for testing its products as it dealt with substantially the same subject matter as a prior proposal requesting, in part, that the company cease conducting animal-based tests to study skin conditions and commit to replacing such tests with non-animal methods).

Moreover, the Proponent's apparent effort to avoid exclusion by couching the Proposal as an executive compensation proposal does not change either the subject matter or the principal focus of the Proposal for purposes of Rule 14a-8(i)(12). For good reason, the staff previously has not countenanced circumvention of Rule 14a-8 in other contexts by allowing a shareholder to cast a proposal as an executive compensation matter where the reference to executive compensation merely cloaks a proposal that is otherwise excludable. In *General*

Electric Co. (St. Joseph Health System) (January 10, 2005), for example, in a proposal framed similarly to the Proposal, a shareholder submitted a proposal requesting the board's compensation committee, "when setting executive compensation, to include social responsibility and environmental (as well as financial) criteria among the goals that executives must meet." The supporting statement noted "that it is especially appropriate for our company to adopt social responsibility and environmental criteria for executive compensation because. . ." and then set forth a number of statistics and statements addressing the link between teen smoking and the depiction of smoking in movies and TV shows. The company, which owned Universal Studios, sought to exclude the proposal under Rule 14a-8(i)(7) on the grounds that the principal thrust of the proposal was to eliminate smoking scenes from the company's movies and TV programs, not executive compensation. The staff agreed, noting that "although the proposal mentions executive compensation, the thrust and focus of the proposal is on the ordinary business matter of the nature, presentation and content of programming and film production." *Accord, Wal-Mart Stores, Inc.* (Mar. 17, 2003) (allowing exclusion of a proposal requesting that the company's board consider, in making executive compensation decisions, whether the company had increased the percentage of employees covered by the company's health insurance plan, noting that, "while the proposal mentions executive compensation, the thrust and focus of the proposal is on the ordinary business matter of general employee benefits"); *Associated Estates Realty Corporation* (Mar. 23, 2000) (allowing exclusion of a proposal tying CEO compensation to the institution of a "business plan" that would include the "disposition of non-core businesses and assets," noting that the proposal related in part "to ordinary business operations (e.g., the disposition of non-core businesses and assets)").

Similarly, the principal thrust of the Proposal, and the subject matter of the Proposal, is diversity, not executive compensation, just as was the case with the Prior Proposals. The Prior Proposals directly requested an accelerated recruitment program to increase diversity among senior managers. The Proposal effectively asks shareholders to vote on the same proposal once again. No shareholder will read the Proposal and consider it to be a vote on the chief executive officer's compensation or on "sustainability." Instead, the Proposal clearly asks shareholders to vote on whether the Company should accelerate its well-publicized efforts to increase diversity in its workforce, including at the Board and senior management levels. The Proposal therefore addresses the same subject matter as the Proposals.

C. The Proposal Included in the Company's 2017 Proxy Materials Did Not Receive the Shareholder Support Necessary to Permit Resubmission

As reported in the Company's Current Report on Form 8-K filed with the SEC on March 1, 2017, a copy of which is attached hereto as Exhibit D, the 2017 Proposal received 4.9% of the votes cast at the Company's 2017 Annual Meeting of Shareholders (as calculated in accordance with *Staff Legal Bulletin No. 14*, Question F.4 (July 13, 2001)). For purposes of this calculation, the 2017 Proposal received 146,045,080 "for" votes and 2,826,316,979 "against" votes. Abstentions and broker non-votes were not included for purposes of this calculation. Therefore, the vote on the 2017 Proposal (which is the most recently submitted of the Prior Proposals) failed to meet the 6% threshold specified in Rule 14a-8(i)(12)(ii).

Accordingly, the Company may exclude the Proposal from its 2018 Proxy Materials under Rule 14a-8(i)(12)(ii) because it deals with substantially the same subject matter as the 2016 Proposal and the 2017 Proposal, and the 2017 Proposal did not receive the necessary shareholder support to permit resubmission.

CONCLUSION

For the reasons discussed above, the Company believes that it may omit the Proposal from its 2018 Proxy Materials in reliance on Rule 14a-8(i)(12)(ii). We respectfully request that the staff concur with the Company's view and confirm that it will not recommend enforcement action to the Commission if the Company excludes the Proposal from its 2018 Proxy Materials.

If you have any questions or need additional information, please feel free to contact me at (408) 974-6931 or by e-mail at glevoff@apple.com.

Sincerely,



Gene D. Levoff
Associate General Counsel,
Corporate Law

Attachments

cc: Pat Miguel Tomaino, Zevin Asset Management, LLC
Jeffery W. Perkins, Friends Fiduciary
Laura Campos, The Nathan Cummings Foundation
Antonio Avian Maldonado, II
Kelly Rogers, Employees' Retirement System of Rhode Island
Renaye Manley, SEIU Fund
Alan L. Dye, Hogan Lovells US LLP

Exhibit A

Copy of the Proposal and Supporting Statement and Related Correspondence

Zevin Asset Management, LLC

PIONEERS IN SOCIALLY RESPONSIBLE INVESTING

September 1, 2017

Via e-mail to shareholderproposal@apple.com.

Bruce Sewell
Secretary
Apple Inc.
1 Infinite Loop
MS: 301-4GC
Cupertino, CA 95014

RE: Shareholder proposal for 2018 Annual Meeting

Dear Mr. Sewell,

I write to file the attached proposal to be included in the proxy statement of Apple Inc ("Apple" or the "Company") for its 2018 annual meeting of stockholders.

Zevin Asset Management is a socially responsible investment manager which integrates financial and environmental, social, and governance research in making investment decisions on behalf of our clients. We are filing the attached proposal to consider linking executive compensation to sustainability and diversity metrics because investors need additional clarity on Apple's approach to its material diversity and inclusion challenges.

For the reasons presented in the attached proposal, investors view diversity and inclusion as critical to long-term success and sustainable risk management at Apple. I have reviewed Apple's disclosures on this issue and engaged with Company officials. I was grateful for Denise Young Smith's presentation on the Company's approach last month and her willingness to consider investors' suggestions.

By Apple's own admission, however, our Company (and the wider tech industry) face a crisis in diversity and inclusion. In this context, Apple must show investors that it is making every reasonable effort and using every tool to respond to that crisis effectively and expeditiously.

The attached proposal focuses on how Apple is driving forward its approach to diversity and inclusion. We believe that Apple should formally consider enhancing its process for setting CEO compensation by incorporating sustainability metrics, including metrics regarding senior executive diversity. Taking that step would reassure investors that the Company's approach to critical sustainability issues like diversity and inclusion are driven and incentivized effectively from the top of the organization.

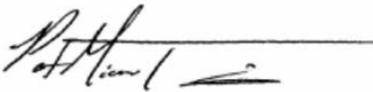
We are filing this shareholder resolution on behalf of Eli Plenk (the Proponent), who has continuously held, for at least one year of the date hereof, 100 shares of the Company's stock which would meet the requirements of Rule 14a-8 under the Securities Exchange Act of 1934, as amended. Verification of this ownership from a DTC participating bank (number 0221), UBS Financial Services Inc, is attached.

Zevin Asset Management, LLC has complete discretion over the Proponent's shareholding account at UBS Financial Services Inc. which means that we have complete discretion to buy or sell investments as well as submit shareholder proposals at the direction of our client (the Proponent) to companies in the Proponent's portfolio. Let this letter serve as confirmation that the Proponent intends to continue to hold the requisite number of shares through the date of the Company's 2018 annual meeting of stockholders.

Zevin Asset Management, LLC is the primary filer for this resolution. We will send a representative to the stockholders' meeting to move the shareholder proposal as required by the SEC rules. We will be joined by one or more co-filers.

We welcome continued engagement with members of management on this issue. Please direct any communications to me at 617-742-6666 or pat@zevin.com. We request copies of any documentation related to this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Miguel Tomaino", is written over a horizontal line.

Pat Miguel Tomaino
Associate Director of Socially Responsible Investing
Zevin Asset Management, LLC

CC: Denise Young Smith, Vice President, Inclusion and Diversity, Apple Inc
Jung-Kyu McCann, Principal Corporate and Governance Counsel, Apple Inc
Nancy Paxton, Investor Relations, Apple Inc
Joan Hoover, Investor Relations, Apple Inc.

WHEREAS: Numerous studies suggest that companies that integrate environmental, social, and governance (ESG) factors into business strategy reduce reputational, legal, and regulatory risks and improve long-term performance.

A large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson. Guidance issued by the United Nations Principles for Responsible Investment (2012) stated that including ESG factors in executive incentive schemes can help protect long-term shareholder value.

Diversity and inclusion are key components of long-term business sustainability and success:

- McKinsey & Company research shows that companies in the top quartiles for gender and racial/ethnic diversity were more likely to have above average financial returns (“Diversity Matters,” McKinsey, 2015).
- In a 2013 Catalyst report, diversity was positively associated with more customers, increased sales revenue, and greater relative profits.
- A 2016 study by Intel and Dalberg estimates the technology sector could generate \$300–\$370 billion in additional annual revenue if tech companies reflected the racial diversity of the talent pool.

Yet technology companies have not seized this opportunity. Underrepresented people of color hold just 9 percent of technical roles in the sector (Intel/Dalberg, 2016). Women hold 36 percent of entry level tech jobs and just 19 percent of C-Suite positions (“Women in the Workplace,” McKinsey, 2016).

The tech diversity crisis creates challenges for talent acquisition and retention, product development, and customer service. In 2016, widely-reported leaked emails detailed women employees’ experiences of sexism at Apple (*Mic*, September 2016). Apple has also faced claims of racial discrimination in retail.

Our Company has taken steps to address diversity. However, current disclosures reveal that Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple’s top 107 executives were underrepresented people of color.

Apple says it strives to “better represent the communities we’re part of” and “break down historical barriers in tech.” Tim Cook has said that diversity is economically essential (*Auburn Plainsman*, April 2017) and “there is a definite diversity issue in tech, in particular in coding and computer scientists” (*New York Times*, August 2017).

Investors seek clarity regarding how Apple is driving improvement on diversity and how that strategy is supported by C-Suite accountability. Integrating diversity metrics into executive compensation assessments would enhance Apple’s approach to a challenge that it has declared mission-critical.

Peers (e.g. Microsoft, Intel, IBM) have set diversity goals and begun tying parts of executive pay to such goals.

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company’s compensation incentive plans. For the purposes of this proposal, “sustainability” is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and “diversity” refers to gender, racial, and ethnic diversity.

Zevin Asset Management, LLC

PIONEERS IN SOCIALLY RESPONSIBLE INVESTING

September 1, 2017

To Whom It May Concern:

Please find attached UBS Financial Services custodial proof of ownership statement of Apple Inc (AAPL) from Eli Plenk.

Zevin Asset Management, LLC is the investment advisor to Eli Plenk and filed the accompanying shareholder resolution on **Eli Plenk's** behalf.

This letter serves as confirmation that Eli Plenk is the beneficial owner of the above referenced stock.

Sincerely,



Pat Miguel Tomaino
Associate Director of Socially Responsible Investing
Zevin Asset Management, LLC



UBS Financial Services Inc.
One Post Office Square
Boston, MA 02109
Tel. 617-439-8227
Fax 855-833-0369
Toll Free 800-225-2385
www.ubs.com/team/kwbwm

Kolton Wood Brown Wealth Management

www.ubs.com

September 1, 2017

To Whom It May Concern:

This is to confirm that DTC participant (number 0221) UBS Financial Services Inc is the custodian for 100 shares of common stock in Apple (AAPL) owned by Eli Plenk.

We confirm that the above account has beneficial ownership of at least \$2,000 in market value of the voting securities of AAPL and that such beneficial ownership has continuously existed for one or more years in accordance with rule 14a-8(a)(1) of the Securities Exchange Act of 1934.

The shares are held at Depository Trust Company under the Nominee name of UBS Financial Services.

This letter serves as confirmation that Eli Plenk is the beneficial owner of the above referenced stock.

Zevin Asset Management, LLC is the investment advisor to Eli Plenk and is planning to file a shareholder resolution on Eli Plenk's behalf.

Sincerely,

A handwritten signature in cursive script that reads "Kelley A. Bowker".

Kelley A. Bowker
The Kolton Wood Brown Group
UBS Financial Services, Inc.

September 5, 2017

Via Email: glevoff@apple.com, shareholderproposal@apple.com

Mr. Gene Daniel Levoff
Associate General Counsel
Corporate Law
Apple, Inc.
1 Infinite Loop
Cupertino, CA 95014

RE: Submission of Shareholder Proposal for the 2018 Annual Meeting

Dear Mr. Levoff,

I, ANTONIO AVIAN MALDONADO, II, hereby submit the enclosed co-filing shareholder proposal (the "Proposal") to be included in the Proxy Statement for APPLE, INC. (the "Company"), to be distributed to shareholders prior to the 2018 annual meeting.

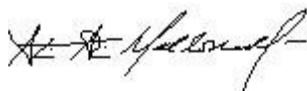
In accordance with U.S. Security and Exchange Commission Rule 14a-8(b), this co-filing shareholder proposal is being submitted to the Company and relates to: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company's compensation incentive plans.

I, ANTONIO AVIAN MALDONADO, II, have held more than \$2,000.00 in common stock for APPLE, INC. for more than one year prior to the submission of the shareholder proposal, dated September 5, 2017; and will continue to maintain ownership of these shares through the date of the annual meeting. A document from CHARLES SCHWAB & CO., INC. confirming that shareholder ownership is enclosed.

I, ANTONIO AVIAN MALDONADO, II, am a co-filer for this proposal; the lead filer being Zevin Asset Management.

I plan on attending the Company's 2018 annual meeting at the prescribed date, time and place as announced by the Company in their Proxy Statement. I would sincerely appreciate and welcome the opportunity to discuss this matter beforehand. I request copies of any documentation related to this proposal.

Sincerely,



TONY

ANTONIO AVIAN MALDONADO, II

CC: Timothy Cook, Chief Executive Officer, Apple Inc.
Denise Young Smith, Vice President, Inclusion and Diversity, Apple Inc.
Jung-Kyu McCann, Principal Corporate and Governance Counsel, Apple Inc.
Joan Hoover, Investor Relations, Apple Inc.

WHEREAS: Numerous studies suggest that companies that integrate environmental, social, and governance (ESG) factors into business strategy reduce reputational, legal, and regulatory risks and improve long-term performance.

A large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson. Guidance issued by the United Nations Principles for Responsible Investment (2012) stated that including ESG factors in executive incentive schemes can help protect long-term shareholder value.

Diversity and inclusion are key components of long-term business sustainability and success:

- McKinsey & Company research shows that companies in the top quartiles for gender and racial/ethnic diversity were more likely to have above average financial returns (“Diversity Matters,” McKinsey, 2015).
- In a 2013 Catalyst report, diversity was positively associated with more customers, increased sales revenue, and greater relative profits.
- A 2016 study by Intel and Dalberg estimates the technology sector could generate \$300–\$370 billion in additional annual revenue if tech companies reflected the racial diversity of the talent pool.

Yet technology companies have not seized this opportunity. Underrepresented people of color hold just 9 percent of technical roles in the sector (Intel/Dalberg, 2016). Women hold 36 percent of entry level tech jobs and just 19 percent of C-Suite positions (“Women in the Workplace,” McKinsey, 2016).

The tech diversity crisis creates challenges for talent acquisition and retention, product development, and customer service. In 2016, widely-reported leaked emails detailed women employees’ experiences of sexism at Apple (*Mic*, September 2016). Apple has also faced claims of racial discrimination in retail.

Our Company has taken steps to address diversity. However, current disclosures reveal that Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple’s top 107 executives were underrepresented people of color.

Apple says it strives to “better represent the communities we’re part of” and “break down historical barriers in tech.” Tim Cook has said that diversity is economically essential (*Auburn Plainsman*, April 2017) and “there is a definite diversity issue in tech, in particular in coding and computer scientists” (*New York Times*, August 2017).

Investors seek clarity regarding how Apple is driving improvement on diversity and how that strategy is supported by C-Suite accountability. Integrating diversity metrics into executive compensation assessments would enhance Apple’s approach to a challenge that it has declared mission-critical.

Peers (e.g. Microsoft, Intel, IBM) have set diversity goals and begun tying parts of executive pay to such goals.

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company’s compensation incentive plans. For the purposes of this proposal, “sustainability” is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and “diversity” refers to gender, racial, and ethnic diversity.



September 5, 2017

Antonio Maldonado

Account #: ***

Questions: +1 (877) 594-2578

Here is the account information you requested.

Dear Antonio Maldonado,

I am writing in response to your request for information on the above referenced account.

On September 5, 2017 you held 455 shares of Apple Inc (symbol AAPL) in the above referenced account. Shares have been continuously held since June 13, 2012.

This letter is for informational purposes only and is not an official record. Please refer to your statements and trade confirmations as they are the official record of your transactions

Thank you for choosing Schwab. We appreciate your business and look forward to serving you in the future. If you have any questions, please call me or any Client Service Specialist at +1 (877) 594-2578.

Sincerely,

Melisa Neill

Melisa Neill
OPERATIONS HELP DESK
9800 Schwab Way
Lone Tree, CO 80124



ADDING VALUES TO STRONG PERFORMANCE.

September 6, 2017

VIA EMAIL

Bruce Sewell
Secretary
Apple Inc.
1 Infinite Loop
MS: 301-4GC
Cupertino, CA95014

Re: Shareholder Proposal for 2018 Annual Meeting

Dear Mr. Sewell:

On behalf of Friends Fiduciary Corporation, I write to give notice that pursuant to the proxy statement of Apple Inc. and Rule 14a-8 under the Securities Exchange Act of 1934, Friends Fiduciary Corporation intends to co-file the attached proposal with lead filer, Zevin Asset Management, LLC at the 2018 annual meeting of shareholders.

Friends Fiduciary Corporation serves more than 360 Quaker meetings, churches, and organizations through its socially responsible investment services. We have over \$400 million in assets under management. Our investment philosophy is grounded in the beliefs of the Religious Society of Friends (Quakers), among them the testimonies of peace, simplicity, integrity and justice. We are long term investors and take our responsibility as shareholders seriously. When we engage companies we own through shareholder resolutions we seek to witness to the values and beliefs of Quakers as well as to protect and enhance the long-term value of our investments. As investors, we believe that examining diversity and inclusion is essential in fostering effective risk management.

A representative of the filers will attend the shareholder meeting to move the resolution. We look forward to meaningful dialogue with your company on the issues raised in this proposal. Please note that the contact person for this proposal is Pat Tomaino, Zevin Asset Management (pat@zevin.com). The lead filer is authorized to withdraw this resolution on our behalf.

Friends Fiduciary currently owns more than 27,000 shares of the voting common stock of the Company. We have held the required number of shares for over one year as of the filing date. As verification, we have enclosed a letter from US Bank, our portfolio custodian and holder of record, attesting to this fact. We intend to hold at least the minimum required number of shares through the date of the Annual Meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Perkins".

Jeffery W. Perkins
Executive Director

Enclosures

cc: Pat Tomaino

WHEREAS: Numerous studies suggest that companies that integrate environmental, social, and governance (ESG) factors into business strategy reduce reputational, legal, and regulatory risks and improve long-term performance.

A large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson. Guidance issued by the United Nations Principles for Responsible Investment (2012) stated that including ESG factors in executive incentive schemes can help protect long-term shareholder value.

Diversity and inclusion are key components of long-term business sustainability and success:

- McKinsey & Company research shows that companies in the top quartiles for gender and racial/ethnic diversity were more likely to have above average financial returns (“Diversity Matters,” McKinsey, 2015).
- In a 2013 Catalyst report, diversity was positively associated with more customers, increased sales revenue, and greater relative profits.
- A 2016 study by Intel and Dalberg estimates the technology sector could generate \$300–\$370 billion in additional annual revenue if tech companies reflected the racial diversity of the talent pool.

Yet technology companies have not seized this opportunity. Underrepresented people of color hold just 9 percent of technical roles in the sector (Intel/Dalberg, 2016). Women hold 36 percent of entry level tech jobs and just 19 percent of C-Suite positions (“Women in the Workplace,” McKinsey, 2016).

The tech diversity crisis creates challenges for talent acquisition and retention, product development, and customer service. In 2016, widely-reported leaked emails detailed women employees’ experiences of sexism at Apple (*Mic*, September 2016). Apple has also faced claims of racial discrimination in retail.

Our Company has taken steps to address diversity. However, current disclosures reveal that Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple’s top 107 executives were underrepresented people of color.

Apple says it strives to “better represent the communities we’re part of” and “break down historical barriers in tech.” Tim Cook has said that diversity is economically essential (*Auburn Plainsman*, April 2017) and “there is a definite diversity issue in tech, in particular in coding and computer scientists” (*New York Times*, August 2017).

Investors seek clarity regarding how Apple is driving improvement on diversity and how that strategy is supported by C-Suite accountability. Integrating diversity metrics into executive compensation assessments would enhance Apple’s approach to a challenge that it has declared mission-critical.

Peers (e.g. Microsoft, Intel, IBM) have set diversity goals and begun tying parts of executive pay to such goals.

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company’s compensation incentive plans. For the purposes of this proposal, “sustainability” is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and “diversity” refers to gender, racial, and ethnic diversity.



All of **us** serving you™

Institutional Trust and Custody
50 South 16th Street
Suite 2000
Philadelphia, PA 19102

September 6, 2017

To Whom It May Concern:

This letter is to verify that **Friends Fiduciary Corporation** holds at least \$2,000.00 worth of **Apple Inc.** common stock. **Friends Fiduciary Corporation** has continuously owned the required value of securities for more than one year and will continue to hold them through the time of the company's annual meeting.

The securities are held by **US Bank NA** who serves as custodian for **Friends Fiduciary Corporation**. The shares are registered in our nominee name at **Depository Trust Company**.

Sincerely,

Angela Upchurch
Account Associate
215-761-9431

THE · NATHAN · CUMMINGS · FOUNDATION

September 7, 2017

Via e-mail to shareholderproposal@apple.com

Bruce Sewell
Secretary
Apple Inc.
1 Infinite Loop
MS: 301-4GC
Cupertino, CA 95014

Dear Mr. Sewell,

The Nathan Cummings Foundation is an endowed institution with approximately \$450 million of investments. As an institutional investor, the Foundation believes that the way in which a company approaches environmental, social and governance issues has important implications for long-term shareholder value.

With our long-term perspective in mind, we submit this resolution for inclusion in Apple Inc.'s proxy statement under Rule 14a-8 of the general rules and regulations of the Securities Exchange Act of 1934. The Nathan Cummings Foundation is co-filing this resolution along with Zevin Asset Management, the primary filer of this proposal. Please note that Zevin may withdraw the proposal on our behalf. As required by the rules of the Securities and Exchange Commission, at least one representative of the filers will attend the stockholders' meeting to move the resolution.

The Nathan Cummings Foundation is the beneficial owner of over \$2,000 worth of shares of Apple Inc. common stock. Verification of this ownership, provided by Amalgamated Bank, our custodian bank, will follow under separate cover. We have continuously held over \$2,000 worth of these shares for more than one year and will continue to hold these shares through the shareholder meeting.

If you have any questions or concerns about this resolution, please contact me at (212) 787-7300. Thank you for your time.

Sincerely,


Laura Campos
Director, Corporate & Political Accountability

WHEREAS: Numerous studies suggest that companies that integrate environmental, social, and governance (ESG) factors into business strategy reduce reputational, legal, and regulatory risks and improve long-term performance.

A large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson. Guidance issued by the United Nations Principles for Responsible Investment (2012) stated that including ESG factors in executive incentive schemes can help protect long-term shareholder value.

Diversity and inclusion are key components of long-term business sustainability and success:

- McKinsey & Company research shows that companies in the top quartiles for gender and racial/ethnic diversity were more likely to have above average financial returns (“Diversity Matters,” McKinsey, 2015).
- In a 2013 Catalyst report, diversity was positively associated with more customers, increased sales revenue, and greater relative profits.
- A 2016 study by Intel and Dalberg estimates the technology sector could generate \$300–\$370 billion in additional annual revenue if tech companies reflected the racial diversity of the talent pool.

Yet technology companies have not seized this opportunity. Underrepresented people of color hold just 9 percent of technical roles in the sector (Intel/Dalberg, 2016). Women hold 36 percent of entry level tech jobs and just 19 percent of C-Suite positions (“Women in the Workplace,” McKinsey, 2016).

The tech diversity crisis creates challenges for talent acquisition and retention, product development, and customer service. In 2016, widely-reported leaked emails detailed women employees’ experiences of sexism at Apple (*Mic*, September 2016). Apple has also faced claims of racial discrimination in retail.

Our Company has taken steps to address diversity. However, current disclosures reveal that Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple’s top 107 executives were underrepresented people of color.

Apple says it strives to “better represent the communities we’re part of” and “break down historical barriers in tech.” Tim Cook has said that diversity is economically essential (*Auburn Plainsman*, April 2017) and “there is a definite diversity issue in tech, in particular in coding and computer scientists” (*New York Times*, August 2017).

Investors seek clarity regarding how Apple is driving improvement on diversity and how that strategy is supported by C-Suite accountability. Integrating diversity metrics into executive compensation assessments would enhance Apple’s approach to a challenge that it has declared mission-critical.

Peers (e.g. Microsoft, Intel, IBM) have set diversity goals and begun tying parts of executive pay to such goals.

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company’s compensation incentive plans. For the purposes of this proposal, “sustainability” is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and “diversity” refers to gender, racial, and ethnic diversity.



September 7, 2017

Via e-mail to shareholderproposal@apple.com.

Bruce Sewell
Secretary
Apple Inc.
1 Infinite Loop
MS: 301-4GC
Cupertino, CA 95014

Dear Mr. Sewell:

This letter will verify that as of September 7, 2017, the Nathan Cummings Foundation held 10,815 shares of Apple Inc. common stock. It has continuously held more than \$2,000 worth of these shares for at least one year and intends to continue to hold at least \$2,000 worth of these shares at the time of your next annual meeting.

The Amalgamated Bank serves as custodian and record holder for the Nathan Cummings Foundation. The above-mentioned shares are registered in a nominee name of the Amalgamated Bank. The shares are held by the Bank through DTC Account #2352.

Sincerely,

A handwritten signature in blue ink that reads "K. Mc Garvey".

Kyle Mc Garvey
First Vice President
Investment Management Division, Client Service



State of Rhode Island and Providence Plantations
Office of the General Treasurer
State House – Room 102
Providence, Rhode Island 02903

Seth Magaziner
General Treasurer

September 7, 2017

Mr. Bruce Sewell, Secretary
Apple, Inc.
1 Infinite Loop MS: 301-4GC
Cupertino, CA 95014

Via e-mail: shareholderproposal@apple.com

Dear Mr. Sewell:

The Employees' Retirement System of Rhode Island believes that diversity, inclusive of gender and race, is a critical attribute of a well-functioning organization and a measure of sound corporate governance. As holders of 302,069 shares of Apple Inc. ("Apple" or the "Company") stock, I am writing to express our support as a co-filer of the attached proxy proposal, which was originally filed by the Zevin Asset Management on behalf of Eli Plenk.

While the Company has taken steps to address its lack of diversity, Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple's top 107 executives were underrepresented people of color.

As long-term investors in the Company, I believe that greater clarity on Apple's approach to its material diversity and inclusion challenges is needed – along with metrics of its success in meeting the challenge. My office is co-filing this proposal to encourage the Company to consider linking executive compensation to diversity metrics.

Attached, please find a letter from BNY Mellon, which confirms Rhode Island Employees Retirement Systems Pooled Trust's ownership of Apple shares. We intend to continue to hold the requisite number of shares through the date of the Company's 2018 annual meeting of stockholders.

We look forward to engaging with the Company on this important issue. Please contact Kelly Rogers, Deputy Treasurer for Policy, by phone (401-222-5126) or email Kelly.Rogers@treasury.ri.gov if you would like to discuss this matter further.

Sincerely,

Seth M. Magaziner
General Treasurer

cc: Denise Young Smith, Vice President, Inclusion and Diversity
Jung-Kyu McCann, Principal Corporate and Governance Counsel
Nancy Paxton, Investor Relations
Joan Hoover, Investor Relations

WHEREAS: Numerous studies suggest that companies that integrate environmental, social, and governance (ESG) factors into business strategy reduce reputational, legal, and regulatory risks and improve long-term performance.

A large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson. Guidance issued by the United Nations Principles for Responsible Investment (2012) stated that including ESG factors in executive incentive schemes can help protect long-term shareholder value.

Diversity and inclusion are key components of long-term business sustainability and success:

- McKinsey & Company research shows that companies in the top quartiles for gender and racial/ethnic diversity were more likely to have above average financial returns (“Diversity Matters,” McKinsey, 2015).
- In a 2013 Catalyst report, diversity was positively associated with more customers, increased sales revenue, and greater relative profits.
- A 2016 study by Intel and Dalberg estimates the technology sector could generate \$300–\$370 billion in additional annual revenue if tech companies reflected the racial diversity of the talent pool.

Yet technology companies have not seized this opportunity. Underrepresented people of color hold just 9 percent of technical roles in the sector (Intel/Dalberg, 2016). Women hold 36 percent of entry level tech jobs and just 19 percent of C-Suite positions (“Women in the Workplace,” McKinsey, 2016).

The tech diversity crisis creates challenges for talent acquisition and retention, product development, and customer service. In 2016, widely-reported leaked emails detailed women employees’ experiences of sexism at Apple (*Mic*, September 2016). Apple has also faced claims of racial discrimination in retail.

Our Company has taken steps to address diversity. However, current disclosures reveal that Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple’s top 107 executives were underrepresented people of color.

Apple says it strives to “better represent the communities we’re part of” and “break down historical barriers in tech.” Tim Cook has said that diversity is economically essential (*Auburn Plainsman*, April 2017) and “there is a definite diversity issue in tech, in particular in coding and computer scientists” (*New York Times*, August 2017).

Investors seek clarity regarding how Apple is driving improvement on diversity and how that strategy is supported by C-Suite accountability. Integrating diversity metrics into executive compensation assessments would enhance Apple’s approach to a challenge that it has declared mission-critical.

Peers (e.g. Microsoft, Intel, IBM) have set diversity goals and begun tying parts of executive pay to such goals.

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company’s compensation incentive plans. For the purposes of this proposal, “sustainability” is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and “diversity” refers to gender, racial, and ethnic diversity.



BNY MELLON

Asset Servicing - Americas
135 Santilli Highway, AIM 026-0313
Everett, MA 02149

September 7, 2017

Re: Rhode Island Employees Retirement Systems Pooled Trust
Account

This letter is to confirm that The Bank of New York Mellon currently holds as custodian for the above client 302,069 shares of common stock in Apple Inc. ticker – AAPL. The above client has held a twelve month average balance of 216,460 shares in Apple Inc. as of September 7, 2017.

These shares are currently being held in the Bank of New York Mellon's omnibus account at Depository Trust Company account number 901. This letter serves as confirmation that the shares are held by The Bank of New York Mellon on behalf of the above mentioned client.

Sincerely,

James F. Mahoney, Jr.
Vice President





September 8, 2017

Via e-mail to shareholderproposal@apple.com

Bruce Sewell
Secretary
Apple Inc.
1 Infinite Loop
MS: 301-4GC
Cupertino, CA 95014

RE: Shareholder proposal for 2018 Annual Meeting

Dear Mr. Sewell:

Enclosed please find our letter co-filing the attached proposal to be included in the proxy statement of Apple Inc. for its 2018 annual meeting of stockholders. The SEIU Fund is co-filing the attached proposal out of concern that the Company may lag behind leading peers in disclosing important information on pay equity.

We are co-filing the accompanying shareholder resolution for inclusion in Apple Inc's proxy statement under Rule 14a-8 of the general rules and regulations of the Securities and Exchange Act of 1934, as amended. The SEIU Fund is co-filing this resolution along with Zevin Asset Management, the primary filer of this proposal. Please note that Zevin Asset Management may withdraw the proposal on our behalf.

The SEIU Fund is the beneficial owner of over \$2,000 worth of shares of Apple Inc. common stock. Verification of this ownership, provided by our custodial bank, will follow under separate cover. We have continuously held over \$2,000 worth of these shares for more than one year and will continue to hold these shares through the shareholder meeting.

As required by the SEC rules, at least one representative of the filers will attend the stockholders' meeting to move the resolution. We would appreciate being copied on any correspondence related to this matter.

For any assistance, contact Renaye Manley at (312) 596-9395 or renaye.manley@seiu.org.

Sincerely,

Bill Dempsey
Chief Financial Officer
Service Employees International Union, CWC, CLC
1800 Massachusetts Ave. NW #8004M
Washington, DC 20036
Office phone: [202.730.7272](tel:202.730.7272)
Fax: 202.350.6623

MARY KAY HENRY
International President

GERRY HUDSON
International Secretary-Treasurer

NEAL BISNO
Executive Vice President

LUISA BLUE
Executive Vice President

HEATHER CONROY
Executive Vice President

SCOTT COURTNEY
Executive Vice President

LESLIE FRANE
Executive Vice President

VALARIE LONG
Executive Vice President

ROCIO SÁENZ
Executive Vice President

SERVICE EMPLOYEES
INTERNATIONAL UNION
CTW, CLC

300 Massachusetts Ave., NW
Washington, DC 20036

202.730.7000

www.SEIU.org

WHEREAS: Numerous studies suggest that companies that integrate environmental, social, and governance (ESG) factors into business strategy reduce reputational, legal, and regulatory risks and improve long-term performance.

A large, diverse group of companies has integrated sustainability metrics into executive pay incentive plans, among them Unilever, Walmart, and Mead Johnson. Guidance issued by the United Nations Principles for Responsible Investment (2012) stated that including ESG factors in executive incentive schemes can help protect long-term shareholder value.

Diversity and inclusion are key components of long-term business sustainability and success:

- McKinsey & Company research shows that companies in the top quartiles for gender and racial/ethnic diversity were more likely to have above average financial returns (“Diversity Matters,” McKinsey, 2015).
- In a 2013 Catalyst report, diversity was positively associated with more customers, increased sales revenue, and greater relative profits.
- A 2016 study by Intel and Dalberg estimates the technology sector could generate \$300–\$370 billion in additional annual revenue if tech companies reflected the racial diversity of the talent pool.

Yet technology companies have not seized this opportunity. Underrepresented people of color hold just 9 percent of technical roles in the sector (Intel/Dalberg, 2016). Women hold 36 percent of entry level tech jobs and just 19 percent of C-Suite positions (“Women in the Workplace,” McKinsey, 2016).

The tech diversity crisis creates challenges for talent acquisition and retention, product development, and customer service. In 2016, widely-reported leaked emails detailed women employees’ experiences of sexism at Apple (*Mic*, September 2016). Apple has also faced claims of racial discrimination in retail.

Our Company has taken steps to address diversity. However, current disclosures reveal that Apple remains predominantly white and male, especially in technical and leadership roles. As of the 2016 Equal Employment Opportunity report, only five of Apple’s top 107 executives were underrepresented people of color.

Apple says it strives to “better represent the communities we’re part of” and “break down historical barriers in tech.” Tim Cook has said that diversity is economically essential (*Auburn Plainsman*, April 2017) and “there is a definite diversity issue in tech, in particular in coding and computer scientists” (*New York Times*, August 2017).

Investors seek clarity regarding how Apple is driving improvement on diversity and how that strategy is supported by C-Suite accountability. Integrating diversity metrics into executive compensation assessments would enhance Apple’s approach to a challenge that it has declared mission-critical.

Peers (e.g. Microsoft, Intel, IBM) have set diversity goals and begun tying parts of executive pay to such goals.

RESOLVED: Shareholders request the Board Compensation Committee prepare a report assessing the feasibility of integrating sustainability metrics, including metrics regarding diversity among senior executives, into the performance measures of the CEO under the Company’s compensation incentive plans. For the purposes of this proposal, “sustainability” is defined as how environmental and social considerations, and related financial impacts, are integrated into long-term corporate strategy, and “diversity” refers to gender, racial, and ethnic diversity.



September 15, 2017

To: Apple Inc.

RE: Service Employees International Union ("SEIU")

To whom it may concern,

As custodian of SEIU (the "Fund"), we are writing to report that as of the close of business on September 8, 2017 the Fund held 35 shares of Apple Inc. ("Company") stock in our account at Depository Trust Company and registered in its nominee name of Cede & Co. The Fund has held in excess of \$2,000 worth of shares in your Company continuously since September 8, 2016.

If there are any other questions or concerns regarding this matter, please feel free to contact me at kylemcgarvey@amalgamatedbank.com or by phone at 212-895-4921.

Sincerely,

A handwritten signature in blue ink that reads "K. Mc Garvey".

Kyle Mc Garvey
First Vice President
Investment Management Division, Client Service

Exhibit B
2017 Proposal

Proposal No. 6 – Shareholder Proposal

Apple has been advised that Mr. Antonio Avian **Maldonado**, II is a beneficial owner of at least \$2,000 in market value of Apple's common stock, and Zevin Asset Management, 11 Beacon Street, Suite 1125, Boston, MA 02108, is a beneficial owner of at least \$2,000 in market value of Apple's common stock. Mr. **Maldonado's** address will be supplied promptly upon oral or written request. Apple has been advised that Mr. **Maldonado** and Zevin Asset Management intend to submit jointly the following proposal at the Annual Meeting:

RESOLVED:

Shareholders request that the Board of Directors adopt an accelerated recruitment policy requiring Apple Inc. (the "Company") to increase the diversity of senior management and its board of directors, two bodies that presently fail to adequately represent diversity and inclusion (particularly Hispanic, African American, Native American and other people of color).

Stockholder Supporting Statement

The tech industry is characterized by the persistent and pervasive underrepresentation of minorities and women in senior positions as detailed in a 2014 U.S. Equal Employment Opportunity Commission report. According to a USA Today analysis of 2014 Computing Research Association data, "[t]op universities turn out black and Hispanic computer science and computer engineering graduates at twice the rate that leading technology companies hire them."¹ The Company is at an advantageous position to be a leader in promoting diversity in senior management and its board of directors, based on its size, breadth and position as one of the largest companies in the world.

Shareholders are concerned that low levels of diversity at the Company's senior management and board level, as well as painstakingly slow improvements, are a business risk.

According to the Company's website, "Diversity is critical to innovation and it is essential to Apple's future."² Further, the Company has stated in multiple Proxy Statements that it is "committed to actively seeking out highly qualified women and individuals from minority groups to include in the pool from which board nominees are chosen."³

Shareholders believe that companies with comprehensive diversity programs, and strong commitment to implementation, enhance their long-term value, reducing the Company's potential legal and reputational risks associated with workplace discrimination and building a reputation as a fair employer. Equally, shareholders believe the varied perspectives of a diverse senior management and board of directors would provide a competitive advantage in terms of creativity, innovation, productivity and morale, while eliminating the limitations of "groupthink", as it would recognize the uniqueness of experience, strength, culture and thought contributed by each; strengthening its reputation and business. This is confirmed by McKinsey & Company, which found companies with highly diverse executive teams had higher returns on equity and earnings performance than those with low diversity, and a May 2014 study found gender diverse teams were better at driving "radical innovation".⁴ "Diversity helps companies react more effectively to market shifts and new customer needs."⁵

¹ <http://www.usatoday.com/story/tech/2014/10/12/silicon-valley-diversity-tech-hiring-computer-science-graduates-african-american-hispanic/14684211/>

² <https://www.apple.com/diversity/>

³ <http://investor.apple.com/secfiling.cfm?filingid=1193125-14-8074&cik=320193>

⁴ Diversity Matters, McKinsey & Company, November 2011.

⁵ Diversity wins!, McKinsey & Company, November 2011.

Therefore, shareholders ask the Company to assist investors in evaluating the company's effectiveness in meeting its commitment to equal opportunity and diversity in senior management and board of directors, in a meaningful way that would not cause the company to breach the assurances of confidentiality and privacy that it has made to its employees. Currently shareholders have insufficient information to determine if the company has been successful in expanding diversity.

We urge shareholders to vote FOR the proposal.

Exhibit C
2016 Proposal

[Table of Contents](#)

Proposal No. 6 – Shareholder Proposal

Apple has been advised that Mr. Antonio Avian Maldonado, II, who has indicated he is a beneficial owner of at least \$2,000 in market value of Apple's common stock, intends to submit the following proposal at the Annual Meeting:

RESOLVED:

Shareholders request that the Board of Directors adopt an accelerated recruitment policy requiring Apple Inc. (the "Company") to increase the diversity of senior management and its board of directors, two bodies that presently fails to adequately represent diversity (*particularly* Hispanic, African-American, Native-American and other people of colour).

Stockholder Supporting Statement

The tech industry, of which the Company is a part, is characterized by the persistent and pervasive underrepresentation of minorities and women in senior positions. The Company is at an advantageous position to be a leader in promoting diversity in senior management and its board of directors, based on its size, breadth and position as the largest company in the world.

Shareholders' view of diversity – that everyone matters (irrespective of colour, race, sex, creed or religion) – recognizes the Company's commitment to diversity and the uniqueness of experience, strength, culture, thought and commitment contributed by each employee; however, it does not ignore the Company's senior management and board of directors diminutive level of diversity and its painstakingly slow implementation.

Overall, by its own public disclosure, the number of minorities holding senior management-level positions or board of directorship within the Company does not reflect the Company's demographic data. According to the Company's website, "Diversity is critical to innovation and it is essential to Apple's future. ... We also aspire to make a difference beyond Apple."¹ Further, in January 10, 2014, the Company stated in its SEC Definitive Proxy Statement that it is "committed to actively seeking out highly qualified women and individuals from minority groups to include in the pool from which board nominees are chosen."²

Shareholders opined that companies with holistic comprehensive diversity policies and programs, and strong leadership commitment to implementation, enhance their long-term value; reducing the Company's potential legal and reputational risks associated with workplace discrimination and build reputations as a fair employer. Equally, shareholders opined that the varied perspectives of a diverse senior management and board of directors would provide a competitive advantage in terms of creativity, innovation, productivity and morale, while eliminating the limitations of "groupthink", as it would recognize the uniqueness of experience, strength, culture and thought contributed by each; strengthening its reputation and accountability to shareholders.

Therefore, shareholders ask the Company to assist investors in evaluating the company's effectiveness in meeting its commitment to equal opportunity and diversity in senior management and board of directors, in any meaningful way that would not cause the company to breach the assurances of confidentiality and privacy that it has made to its employees.

We urge shareholders to vote FOR the proposal.

¹ <https://www.apple.com/diversity/>

² <http://investor.apple.com/secfiling.cfm?filingid=1193125-14-8074&cik=320193>

Exhibit D

Form 8-K Filed March 1, 2017

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934

February 28, 2017

Date of Report (Date of earliest event reported)



Apple Inc.

(Exact name of Registrant as specified in its charter)

California
(State or other jurisdiction
of incorporation)

001-36743
(Commission
File Number)

94-2404110
(IRS. Employer
Identification No.)

1 Infinite Loop
Cupertino, California 95014
(Address of principal executive offices) (Zip Code)

(408) 996-1010
(Registrant's telephone number, including area code)

Not applicable
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the Registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-
-

Item 5.07 Submission of Matters to a Vote of Security Holders.

The Annual Meeting of Shareholders of Apple Inc. was held on February 28, 2017. At the Annual Meeting, Apple's shareholders voted on the following nine proposals and cast their votes as described below.

1. The individuals listed below were elected at the Annual Meeting to serve as directors of Apple until the next annual meeting of shareholders and until their successors are duly elected and qualified:

	<u>For</u>	<u>Against</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
James Bell	3,089,673,529	10,471,435	7,676,486	1,423,019,414
Tim Cook	3,087,199,318	14,905,298	5,662,834	1,423,019,414
Al Gore	3,022,575,889	78,176,582	7,014,979	1,423,019,414
Bob Iger	3,086,241,978	15,317,752	6,207,720	1,423,019,414
Andrea Jung	2,957,214,003	139,669,704	10,883,743	1,423,019,414
Art Levinson	3,052,101,247	48,201,268	7,464,935	1,423,019,414
Ron Sugar	3,079,634,871	20,163,597	7,968,982	1,423,019,414
Sue Wagner	3,090,537,929	9,962,633	7,266,888	1,423,019,414

2. A management proposal to ratify the appointment of Ernst & Young LLP as Apple's independent registered public accounting firm for 2017, as described in the proxy materials. This proposal was approved.

<u>For</u>	<u>Against</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
4,478,312,722	35,312,155	17,161,987	0

3. An advisory resolution to approve executive compensation, as described in the proxy materials. This proposal was approved.

<u>For</u>	<u>Against</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
2,946,520,818	146,195,145	15,051,487	1,423,019,414

4. An advisory resolution on the frequency of shareholder votes on executive compensation, as described in the proxy materials. A majority of shareholders voted for "1 Year."

<u>1 Year</u>	<u>2 Years</u>	<u>3 Years</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
2,779,412,604	8,051,658	311,483,149	8,820,039	1,423,019,414

Based on these results, and consistent with Apple's recommendation, the Board has determined that Apple will hold an advisory vote on executive compensation every year.

5. A shareholder proposal entitled "Charitable Giving – Recipients, Intentions and Benefits," as described in the proxy materials. This proposal was not approved.

<u>For</u>	<u>Against</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
64,942,726	2,908,356,290	134,468,434	1,423,019,414

-
6. A shareholder proposal regarding diversity among Apple's board of directors and senior management, as described in the proxy materials. This proposal was not approved.

<u>For</u>	<u>Against</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
146,045,080	2,826,316,979	135,405,391	1,423,019,414

7. A shareholder proposal entitled "Shareholder Proxy Access Amendments," as described in the proxy materials. This proposal was not approved.

<u>For</u>	<u>Against</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
984,699,025	2,102,271,791	20,796,634	1,423,019,414

8. A shareholder proposal entitled "Executive Compensation Reform," as described in the proxy materials. This proposal was not approved.

<u>For</u>	<u>Against</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
67,856,548	3,018,354,923	21,555,979	1,423,019,414

9. A shareholder proposal entitled "Executives to Retain Significant Stock," as described in the proxy materials. This proposal was not approved.

<u>For</u>	<u>Against</u>	<u>Abstained</u>	<u>Broker Non-Vote</u>
747,724,576	2,337,705,980	22,336,894	1,423,019,414

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Apple Inc.

Date: March 1, 2017

By: /s/ D. Bruce Sewell

D. Bruce Sewell
Senior Vice President,
General Counsel and Secretary