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

DIVISION OF
CORPORATION FINANCE

March 6, 2018

Gary Gerstman
Sidley Austin LLP
ggerstman@sidley.com

Re: eBay Inc.
Incoming letter dated January 24, 2018

Dear Mr. Gerstman:

This letter is in response to your correspondence dated January 24, 2018 concerning the shareholder proposal (the "Proposal") submitted to eBay Inc. (the "Company") by Jing Zhao (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also have received correspondence from the Proponent dated January 26, 2018. 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: Jing Zhao
***

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

March 6, 2018

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: eBay Inc.
Incoming letter dated January 24, 2018

The Proposal recommends that the Company disclose the company's executive compensation information with executives' actual income.

There appears to be some basis for your view that the Company may exclude the Proposal under rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company's public disclosures compare favorably with the guidelines of the Proposal and that the Company has, therefore, substantially implemented the Proposal. 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)(10). 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.

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January 26, 2018

Via email shareholderproposals@sec.gov
U.S. Securities and Exchange Commission
Office of Chief Counsel
Division of Corporation Finance
100 F Street, NE
Washington, DC 20549-2736

Re: Stockholder Proposal for Inclusion in eBay Inc. 2018 Proxy Materials

Ladies and Gentlemen:

Sidley's January 24, 2018 letter on behalf of eBay Inc. to exclude my proposal from its proxy materials of 2018 stockholders meeting is baseless.

I. My proposal is not "Impermissibly Vague and Indefinite, and Subject to Multiple Interpretations." As I cited in my proposal's Supporting Statement regarding "realized pay" from the Wall Street Journal report, there is no base to doubt that shareholders' understanding is lower than Wall Street Journal's readers. To avoid "micro-management" of company's business, my proposal gives the company flexibility to disclose the company's executive compensation information with executives' actual income.

II. Although the company may have met the required disclosure of the company's executive compensation information, my proposal recommends disclose further more with executives' actual income, which the company has not implemented.

Should you have any questions, please contact me at *** or *** .

Respectfully,

Jing Zhao

Cc: "Gerstman, Gary D." ggerstman@sidley.com , "Koehler, Allison" alkoehler@ebay.com , "mhuber@ebay.com" mhuber@ebay.com, "Reed, Andrea" andrea.reed@sidley.com

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

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January 24, 2018

Via Electronic Mail

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

Re: eBay Inc. – Shareholder Proposal submitted by Jing Zhao

This letter is submitted on behalf of eBay Inc., a Delaware corporation ("eBay" or the "Company"), pursuant to Rule 14a-8 of the Securities Exchange Act of 1934 (the "Exchange Act"), to notify the Securities and Exchange Commission (the "Commission") of eBay's intention to exclude from its proxy materials for its 2018 Annual Meeting of Stockholders (the "2018 Annual Meeting") a shareholder proposal (the "Proposal") and statement in support thereof received from Jing Zhao (the "Proponent").

eBay intends to file its definitive proxy materials for the 2018 Annual Meeting on or about April 16, 2018. Pursuant to Staff Legal Bulletin No. 14D (November 7, 2008), this letter and its exhibits are being submitted via email to *shareholderproposals@sec.gov*. A copy of this letter and its exhibits will also be sent to the Proponent.

eBay hereby respectfully requests confirmation that the staff of the Division of Corporation Finance (the "Staff") will not recommend to the Commission that enforcement action be taken if eBay excludes the Proposal from its 2018 Annual Meeting proxy materials for the reasons set forth below.

THE PROPOSAL

The Proposal sets forth the following resolution to be voted on by shareholders at the 2018 Annual Meeting:

> Resolved: shareholders recommend that eBay Inc. disclose the company's executive compensation information with executives' actual income.

A copy of the Proposal and the supporting statement (the "Supporting Statement") is set forth in Exhibit A.

BASES FOR EXCLUSION OF THE PROPOSAL

The Company believes that it may omit the Proposal from its proxy materials for the 2018 Annual Meeting in reliance on (i) Rule 14a-8(i)(3) because it is impermissibly vague and indefinite such that it is inherently misleading in violation of Rule 14a-9, and (ii) Rule 14a-8(i)(10) because under certain interpretations of the Proposal, the Company has already substantially implemented the Proposal.

I. The Company May Exclude the Proposal Pursuant to Rule 14a-8(i)(3) Because it is Impermissibly Vague and Indefinite, and Subject to Multiple Interpretations, such that Shareholders Voting on the Proposal Would Not Know with Any Reasonable Certainty What Actions or Measures the Proposal Requires.

Rule 14a-8(i)(3) provides that a company may exclude a shareholder proposal from its proxy materials if the proposal or supporting statement is contrary to any of the Commission's proxy rules. The Staff consistently has taken the position that vague and indefinite shareholder proposals are inherently misleading and therefore excludable under Rule 14a-8(i)(3) because "neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires."[1] The Staff has further explained that a shareholder proposal can be sufficiently misleading and therefore excludable under Rule 14a-8(i)(3) when the company and its shareholders might interpret the proposal differently such that "any action ultimately taken by the [c]ompany upon implementation [of the proposal] could be significantly different from the actions envisioned by the shareholders voting on the proposal." *Fuqua Industries, Inc.* (Mar. 12, 1991). The Staff has consistently permitted the exclusion of proposals under Rule 14a-8(i)(3) where the proposal was so inherently vague and indefinite that shareholders voting on it would be unable to ascertain with reasonable certainty what actions or policies the company should undertake if the proposal was enacted.

The Staff has articulated that when a proposal uses key terms that are internally vague, inconsistent or unclear and the proponent fails to provide adequate guidance on how such inconsistencies or uncertainties should be resolved, that proposal may be excluded as vague and indefinite.[2] The danger in presenting such proposals to shareholders is that, due to the lack of

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[1] Staff Legal Bulletin No. 14B (September 15, 2004).

[2] *See, e.g., Bank of America Corp.* (Mar. 12, 2013) (concurring in the exclusion of a proposal regarding the exploration of "extraordinary transactions that could enhance shareholder value" where the definition of "extraordinary transactions" was inconsistent and unclear throughout the proposal and the supporting statement); *Verizon Communications Inc.* (Feb. 21, 2008) (concurring with the exclusion of a proposal regarding formulas for short- and long-term incentive-based executive compensation where the methods of calculation provided were

guidance with respect to these uncertainties and inconsistencies, the company could not "determine with any reasonable certainty exactly what actions or measures the proposal requires," and therefore the proposal might be implemented in a way that could be "significantly different from the actions envisioned by the shareholders voting on the proposal."[3]

In the context of shareholder proposals related to executive compensation, as is the case with the Proposal, the Staff has consistently permitted the exclusion of such proposals in reliance on Rule 14a-8(i)(3) for failure to define certain key terms necessary to implement the proposals. For example, in *The Boeing Company* (Recon.) (Mar. 2, 2011), the Staff permitted the exclusion of a proposal that requested the company to negotiate with its senior executives to "relinquish, for the common good of all shareholders, preexisting executive pay rights, if any, to the fullest extent possible" under Rule 14a-8(i)(3), noting in particular that, the proposal "does not sufficiently explain the meaning of 'executive pay rights' and that, as a result, neither the shareholders nor the company would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." The Staff permitted the exclusion of the same proposal in *International Paper Company* (Feb. 3, 2011) also under Rule 14a-8(i)(3). Similarly, in *General Motors Corp.* (Mar. 26, 2009), the Staff permitted the exclusion of a proposal to "eliminate all incentives for CEOs and the Board of Directors" under Rule 14a-8(i)(3) because the proponent did not define "incentives."[4] In *General Electric Co.* (Feb. 5, 2003), the Staff concurred that under Rule 14a-8(i)(3), a company may exclude a proposal that requested the company to "seek shareholder approval for all compensation of Senior Executives and Board members not to exceed more than 25 times the average wage of hourly working employees,"

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inconsistent with each other); *International Business Machines Corp.* (Feb. 2, 2005) (concurring in the exclusion of a proposal regarding executive compensation because the identity of the affected executives was uncertain and subject to multiple interpretations); *Peoples Energy Corp.* (Nov. 23, 2004, *recon. denied* Dec. 10, 2004) (concurring in the exclusion of a proposal where the term "reckless neglect" was uncertain and subject to multiple interpretations); *Norfolk Southern Corp.* (Feb. 13, 2002) (concurring in the exclusion of a proposal requesting that the board of directors "provide for a shareholder vote and ratification, in all future elections of Directors, candidates with solid background, experience and records of demonstrated performance in key managerial positions within the transportation industry" as vague and indefinite because it did not provide adequate guidance to resolve potential inconsistencies and ambiguities with respect to its criteria).

[3] *See, Jefferies Group, Inc.* (Feb. 11, 2008, *recon. denied* Feb. 25, 2008) (concurring in the exclusion of a proposal where the "resolved" clause sought an advisory vote on the company's executive compensation policies, yet the supporting statement and the proponent stated that the effect of the proposal would be to provide a vote on the adequacy of the compensation disclosures); *JPMorgan Chase & Co.* (Jan. 31, 2008) (concurring in the exclusion of a proposal that sought to prohibit restrictions on "the shareholder right to call a special meeting, compared to the standard allowed by applicable law on calling a special meeting" where the applicable state law did not affirmatively provide any shareholder right to call special meetings, nor did it set any default "standard" for such shareholder-called meetings).

[4] *See also Verizon Communications Inc.* (Feb. 21, 2008) (concurring in the exclusion of a proposal prohibiting certain compensation unless Verizon's returns to shareholders exceeded those of its undefined "Industry Peer Group" under Rule 14a-8(i)(3)).

because it is vague and indefinite, the Proposal not having defined the terms "compensation" and "average wage."

Here, as in *Boeing, International Paper Company*, *General Motors* and *General Electric*, among others, the Proposal fails to define or explain the meaning of several key terms, and the Supporting Statement provides little guidance on the Proposal's intended meaning or anticipated consequences, making impossible for the Company to determine with any reasonable certainty how to implement the Proposal and almost certainly leading to substantial confusion and varying expectations among voting shareholders as to what actions the Company would take to implement the Proposal's operative language.

Particularly problematic is the Proposal's failure to define the term "actual income," making it impossible for the Company and shareholders to ascertain with any reasonable certainty what executive compensation information the Proponent is requesting to be disclosed. The Supporting Statement's references to "realized pay" do not clarify the ambiguity in the Proposal's request. It is not clear from the text of the Supporting Statement whether the Proponent intends the term "realized pay" to serve as a synonym for, or an example of, "actual income."[5] Regardless, neither "actual income" nor "realized pay" are terms of art with an ascertainable technical definition, nor do such terms have an ordinary commonly understood meaning within the context of executive compensation disclosure.

The Commission has provided some guidance on a similar ambiguity in its proposed pay-versus-performance rules (the "Proposed Rules") that would, among other things, require companies to provide disclosure about "compensation actually paid" to the CEO and the average "compensation actually paid" for the other named executive officers. The Commission's proposed definition of "compensation actually paid" adjusts the executive's total compensation from the Summary Compensation Table by replacing the change in actuarial present value of pension benefits and the grant date fair value of equity awards granted during the year as reported in the Summary Compensation Table with, respectively, the actuarial present value of benefits (under defined benefit or pension plans) attributable to services rendered by the executive officer during the year and the fair value of equity awards that vested (whether or not actually exercised) during the year, determined as of the vesting date, under applicable accounting rules and guidance.

In contrast to the approach taken by the Commission under the Proposed Rules, some companies that report "realized pay" only include the value of exercisable equity awards if they

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[5] If the latter, the Staff has concurred that providing examples does not suffice to define a key term in a proposal. *See, e.g., Cascade Financial Corp.* (Mar. 4, 2010), (concurring in the exclusion of a proposal requesting the board to adopt a policy that the company eliminate all "non-essential expenditures" because the proposal was vague an indefinite when it did not define "non-essential expenditures" and instead offered a list of examples); *Bank of America Corp.* (Feb. 22, 2010) (concurring in the exclusion of a proposal that called for the creation of a board committee on "US Economic Security" because the proposal did not define the term "US Economic Security" and offered only an illustrative list of factors for the committee to review).

were actually exercised – not just vested – during the year, and exclude indirect compensation elements such as the change in pension value from the realized pay calculations.[6] There are various approaches to calculating "realized pay" as well. For example, companies may vary in terms of whether and to what extent the value attributable to the vesting or exercise of equity awards granted in previous years is included in "realized pay" for a given year. In fact, "the lack of a single accepted approach to defining realized pay" is listed as one of the limitations of using "realized pay" compared to other methods of quantifying executive compensation in "Defining Pay in Pay for Performance," an article posted on the Harvard Law School Forum on Corporate Governance and Financial Regulation blog on October 5, 2012 (the "Defining Pay Article").

There is a similar, but distinct concept of "realizable pay." Like "realized pay," "realizable pay" includes cash amounts for salary, bonus and other cash incentive awards that were actually earned. However, unlike "realized pay," the treatment of equity awards under the "realizable pay" approach focuses on the amounts that an executive can realize based on actual stock performance as of a specified date. According to the Defining Pay Article, "realizable pay" includes the "intrinsic values of equity awards outstanding as of the end of the relevant period, whether or not they are exercised (in the case of options or SARs) or paid or vested (in the case of restricted stock and other full-value equity awards)." As with "realized pay," companies define and calculate "realizable pay" differently and "there is no one defined or accepted approach to defining realizable pay."[7]

In addition, the Proposal is so inherently vague and indefinite that any action ultimately taken by the Company to implement the Proposal could be significantly different from the actions envisioned by the shareholders voting on it. It is not clear from the Proposal and its Supporting Statement how the Company should "disclose the company's executive compensation information with executives' actual income" in a way that differs from its current disclosure practices. The Company's executive compensation disclosure complies with the requirements set out in federal securities laws, which require the disclosure of the amounts and types of compensation paid to the CEO, CFO and certain other highly-compensated executive officers. It is not clear from the Proposal whether the recommendation is for the Company to replace its current executive compensation disclosure with disclosure of "actual income," or to disclose "actual income" in addition to the disclosure required by federal securities laws, or to provide such "actual income" disclosure in the Company's proxy statement or through a separate

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[6] *See, e.g.*, the Proxy Statement for the 2017 Annual Meeting of Shareholders for Exxon Mobil Corporation stating that "realized pay" includes the "net spread on stock option exercises" and "excludes…changes in pension value… as well as any retirement-related payouts from pension or nonqualified compensation plans" and the Proxy Statement for the 2017 Annual Meeting of Shareholders for M.D.C. Holdings, Inc. which defines "realized compensation" as including "the value realized from the exercise of stock options during the year."

[7] *See also* "Trends in Realized/Realizable Pay Disclosures, Top 25 Companies," a report by Frederic W. Cook & Co., Inc., analyzing trends in the approaches by various public companies in their 2013 proxy statements with respect to defining and disclosing "realized pay" or "realizable pay" and stating that "due to the absence of regulatory mandates requiring such disclosure an there being no standardized definitions of "actual (realized/realizable) pay," companies have so far been able to customize their own definitions of actual pay."

disclosure document, or to implement some other method of disclosure not contemplated here. Thus, the Proposal is susceptible to any number of interpretations of what disclosure is being requested and how such disclosure could be implemented.

In summary, the Company believes that the Proposal's failure to define "actual compensation" creates real potential for shareholder confusion regarding the content of the requested disclosure. Based on the references in the Supporting Statement, some shareholders may think that the Proposal calls for the disclosure of "realized pay," though, as discussed above, shareholders may still have differing ideas of what such term actually entails. Given the similarity in the names of the terms, the overlap in the types of compensation included in both terms and the lack of uniform definition for both terms, some shareholders might even interpret the references to "realized pay" as "realizable pay" without recognizing the error. It is also possible that some shareholders who may be aware of the Proposed Rules may interpret the Proposal to call for the disclosure of the "compensation actually paid" concept as defined in the Proposed Rules. Other shareholders may interpret the Proposal to simply call for disclosure that is sufficient to provide them with an understanding of the amounts and types of executive compensation.[8] Yet other shareholders may interpret "actual compensation" as including cash compensation only, or some other variation of the current total compensation required to be disclosed in the Summary Compensation Table of the Company's proxy statement. Thus, the failure to define "actual income," in the absence of any widely accepted definition of such term, makes it even more difficult for shareholders to determine with any reasonable certainty what disclosure changes they are voting on.

Given the lack of clarity on the nature and scope of the Proposal's request, a shareholder also might read the Proposal as requiring a course of action different from any of the interpretations of the method and substance of the requested disclosure outlined in the paragraphs above. As there are multiple plausible interpretations of what actions the Company is being asked to undertake to "disclose the company's executive compensation information with executive's actual income," neither shareholders nor the Company will be able to determine with any reasonable certainty what actions or measures the Proposal requires. As in *Fuqua*, "any action ultimately taken by the company upon implementation of the proposal could be significantly different from the actions envisioned by the shareholders voting on the proposal." As a result, the Company believes that the Proposal may be excluded from the proxy materials for the 2018 Annual Meeting in its entirety pursuant to Rule 14a-8(i)(3).

II. The Proposal May be Omitted In Its Entirety in Reliance on Rule 14a-8(i)(10) Because Under Certain Interpretations of the Proposal, the Company Has Already Substantially Implemented the Proposal.

[8] Under this interpretation, the Company believes that the Proposal should also be excluded on the grounds of substantial implementation under Rule 14a-8(i)(10), as discussed further in Part II.

Exchange Act Rule 14a-8(i)(10) provides that a company may exclude a proposal from its proxy materials if "the company has already substantially implemented the proposal." With respect to the predecessor to Rule 14a-8(i)(10), the Commission stated in 1976 that the exclusion was designed to avoid the possibility of shareholders having to consider matters that have already been favorably acted upon by the management team.[9] The Commission adopted the current version of this exclusion in 1983,[10] and since then, the Staff has regularly concurred that a proposal may be excluded when a company can demonstrate that it has already addressed the elements of the proposal.

A proposal need not be "fully effected" by the company in order to be excluded as substantially implemented. Similarly, a company need not have implemented each element in the precise manner suggested by the proponent.[11] The Commission recognized that the Staff's previously narrow interpretation of the predecessor rule "may not serve the interests of the issuer's security holders at large and may lead to an abuse of the security holder proposal process," because that interpretation enabled proponents to argue "successfully on numerous occasions that a proposal may not be excluded as moot in cases where the company has taken most but not all of the actions requested by the proposal."[12] Now the Staff takes the view that the company's actions must address the underlying concerns of the proposal or implement the essential objectives of the proposal, even if the manner in which the company implements the proposal does not necessarily correspond directly to the actions sought by the proponent and even if the actions do not go as far as the proposal contemplates.[13] The Staff has also explained

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[9] Release No. 34-12598 (July 7, 1976).

[10] Release No. 34-20091 (August 16, 1983) (indicating that the Staff's "previous formalistic application of" the predecessor rule "defeated its purpose" because the interpretation allowed proponents to obtain a shareholder vote on an existing company policy by changing only a few words of the policy).

[11] *Id.*

[12] *Id.*

[13] *See, e.g., Dominion Resources, Inc.* (Feb. 9, 2016) (proposal requesting report on measuring, mitigating, disclosing and setting reduction targets for methane emissions was excludable where existing company disclosures compared favorably to the guidelines of the proposal, in spite of the proponent's allegation that the company's disclosures did not cover all facilities, address means of measuring methane reduction, or include specific reduction targets); *Walgreen Co.* (Sep. 26, 2013) (permitting exclusion of a proposal requesting elimination of supermajority voting requirements in the company's governing documents where the company had eliminated all but one of the supermajority voting requirements); *Pfizer Inc.* (Jan. 11, 2013, *recon. denied* Mar. 1, 2013) (proposal requesting report on measures to reduce the use of animal testing and plans to promote alternatives to animal use was excludable where existing company laboratory animal care guidelines and policy were available on its website); *MGM Resorts International* (Feb. 28, 2012) (proposal requesting report on company's sustainability policies and performance, including multiple, objective statistical indicators, was excludable since company published an annual sustainability report); *Duke Energy Corp.* (Feb. 21, 2012) (proposal requesting report on the company's actions to build shareholder value and reduce greenhouse gas and other emissions was excludable in light of the company's existing policies, practices and procedures and public disclosures); *ConAgra Foods, Inc.* (Jul. 3, 2006) (proposal requesting sustainability report was excludable where the company already published a sustainability report as part of its corporate responsibilities report); *The Talbots Inc.* (Apr. 5, 2002) (proposal requesting code of conduct based on International Labor Organization human rights standard was excludable in light of the company's own business

that, "a determination that the company has substantially implemented the proposal depends upon whether particular policies, practices and procedures compare favorably with the guidelines of the proposal."[14] A company may address adequately the underlying concerns and essential objectives of a shareholder proposal without implementing precisely the actions contemplated by the proposal.

As fully set forth in Part I above, the Company believes that the Proposal is so vague and indefinite as to be misleading within the meaning of Rule 14a-9. However, if the Proposal's essential objective is interpreted as a request for the Company to provide sufficient disclosure for shareholders to understand the amounts and types of executive compensation paid by the Company (which, in any case, necessarily involves reading additional meaning beyond the plain language of the text of the Proposal), the Company believes that the Proposal has been substantially implemented and therefore, may properly be excluded under Rule 14a-8(i)(10).

On the executive compensation page of the "Fast Answers" section of the Commission's website (the "SEC Website"), "the federal securities laws require clear, concise and understandable disclosure about compensation paid to CEOs, CFOs and certain other high-ranking executive officers of public companies." Specifically, per the SEC Website, "the federal securities laws require disclosure of the amount and type of compensation paid to the company's CEO and other highly-compensated executive officers." The Summary Compensation Table requires disclosure of the amounts of each type of compensation paid to such executive officers, with additional details regarding the various types of compensation provided in additional supporting tables and narrative disclosure in the Compensation Discussion and Analysis section of the proxy statement. Given that the Company's method of disclosing its executive compensation information is to provide disclosure that complies with the requirements of federal securities laws, the Company believes that it has already satisfied the essential objective of the Proposal.

In the Supporting Statement, the Proponent describes the total compensation and stock award compensation reported for the Company's President and CEO in the Summary Compensation Table in the Company's proxy statement for its 2017 Annual Meeting of Stockholders. The Proponent specifically referenced the stock award amounts as described in Column (e) of the Summary Compensation Table, which was described therein as follows:

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practice standards); and *Masco Corp.* (Mar. 29, 1999) (proposal seeking adoption of a standard for independence of the company's outside directors was excludable where the company had adopted a standard that, unlike the one specified in the proposal, added the qualification that only material relationships with affiliates would affect a director's independence).

[14] *Texaco, Inc.*, (*Recon.*) (Mar. 28, 1991) (proposal requesting the company to implement a specific set of environmental guidelines was excluded as substantially implemented because the company had established a compliance and disclosure program related to its environmental program, even though the company's guidelines did not satisfy the specific inspection, public disclosure or substantive commitments that the proposal sought).

> "The amounts reported in the Stock Awards column represent the aggregate grant date fair value of time-based restricted stock units, or RSUs, and performance-based restricted stock units, or PBRSUs, granted to each of our NEOs in 2016, 2015, and 2014, respectively, calculated in accordance with the Financial Accounting Standards Board's Accounting Standards Codification Topic 718, Compensation — Stock Compensation. The grant date fair value of RSUs is determined using the fair value of our common stock on the date of grant, and the grant date fair value of PBRSUs is calculated based on the fair value of our common stock on the date of grant and probable outcome of the performance measures for the applicable performance period as of the date on which the PBRSUs are granted. This estimated fair value for PBRSUs is different from (and lower than) the maximum value of PBRSUs set forth below. The equity incentive awards included in this column were all awarded under the Company's 2008 Equity Incentive Award Plan, as amended and restated...."

As the above-quoted portion of the Company's proxy statement shows, the stock award amounts in question reflect the aggregate grant date fair value of the stock awards as determined pursuant to FASB ASC Topic 718, in accordance with the requirements of Item 402(c)(2)(v) of Regulation S-K and the accompanying instructions. According to Release No. 33-9089 (December 16, 2009), these requirements became effective on February 28, 2010 pursuant to amendments issued by the Commission in response to comments "previously received from a variety of sources that the information that investors would find most useful and informative in the Summary Compensation Table and Director Compensation Table is the full grant date fair value of equity awards made during the covered fiscal year." Consistent with the Commission's responsibility to ensure "that the investing public is provided with full and fair disclosure of material information on which to base informed investment and voting decisions," as set forth on the SEC Website, the Commission adopted these amendments to ensure that shareholders receive sufficient disclosure about the amount of executive compensation paid in stock awards during the relevant time periods.

In addition, to the extent the Proponent takes issue with the fact that the stock award compensation reported in the Summary Compensation Table does not reflect the value of the stock awards actually received during the course of the year, the Company notes that this information is provided in the Option Exercises and Stock Vested table of the Company's proxy statement for the 2017 Annual Meeting of Shareholders, which discloses both the number of shares the executive has acquired due to the vesting of stock awards during the relevant fiscal year as well as the value realized by the executive upon such vesting.

Accordingly, if the Proposal's essential objective is interpreted as a request for the Company to provide sufficient disclosure for shareholders to understand the amounts and types of executive compensation paid by the Company, the Company believes that it has already satisfied this objective by complying with the requirements of federal securities laws and has

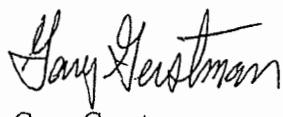
thus substantially implemented the Proposal. As a result, the Company believes that the Proposal may be excluded from the proxy materials for the 2018 Annual Meeting in its entirety pursuant to Rule 14a-8(i)(10).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff confirm that it will take no action if the Company excludes the Proposal from its proxy materials for the 2018 Annual Meeting.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. If you have any questions regarding this request or desire additional information, please contact the undersigned at (312) 853-2060 or by email at ggerstman@sidley.com.

Sincerely,



Gary Gerstman

Attachments

cc: Marie Oh Huber, eBay Inc.
Allison Koehler, eBay Inc.
Jing Zhao

Exhibit A
(see attached)

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October 31, 2017

eBay Inc.

Corporate Secretary

2025 Hamilton Avenue, San Jose,

California 95125

(via certified mail & ir@ebay.com)

Re: Stockholder Proposal to 2018 Stockholders Meeting

Dear Secretary:

Enclosed please find my stockholder proposal for inclusion in our company's proxy materials for the 2018 annual meeting of stockholders and a letter confirming my eBay shares. I will continuously hold these shares until the 2018 annual meeting of stockholders.

Furthermore, I would suggest that you provide an email to receive proposals from stockholders. I received the letter confirming my eBay shares today after 5pm so I am sending the proposal now to ir@ebay.com and will send the proposal tomorrow morning via certified post mail. I hope you will not use this as an excuse to exclude my proposal.

Should you have any questions, please contact me at *** or ***.

Yours truly,

Jing Zhao

Enclosure: Stockholder proposal

Letter of shares

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

Stockholder Proposal on Executive Compensation Information

Resolved: stockholders recommend that eBay Inc. disclose the company's executive compensation information with executives' actual income.

Supporting Statement

The Summary Compensation Table disclosed from our 2017 Proxy Statement (p. 59) shows that our President & CEO received $12,500,033 (78.4%) Stock Awards out of total $15,941,192 in 2016. Like CEO's pay, stock awards have become executives' main compensation. However, this information is not based on executives' realized pay. "The amounts reported in the Stock Awards column represent the aggregate grant date fair value of time-based restricted stock units, or RSUs, and performance-based restricted stock units, or PBRSUs ...The grant date fair value of RSUs is determined using the fair value of our common stock on the date of grant, and the grant date fair value of PBRSUs is calculated based on the fair value of our common stock on the date of grant and probable outcome of the performance measures for the applicable performance period as of the date on which the PBRSUs are granted. This estimated fair value for PBRSUs is different from (and lower than) the maximum value of PBRSUs" (Ibid.).

According to the Wall Street Journal: "Summary compensation tables massively understate what executives earn and don't tell investors what they need to know." "In 2015—the last year for which full data is available—the average pay of the 500 highest-paid U.S. executives was $17.1 million according to fair-value estimates, but $32.6 million according to realized pay." (*Better Ways to Measure Your Boss's Pay*, July 4, 2017.)

What is the meaning of the corporate governance without the disclosure of what executives actually earned? The American public is worried. If things such as the ballooning of the executive compensation without proper disclosure continue, "We will become an oligarchy, ...The rich and the powerful have a well-stocked armory for seizing control of our democracy and... they are already using it very effectively." (Senator Elizabeth Warren, This Fight is Our Fight: The Battle to Save American Middle Class. Metropolitan Books/Henry Holt, 2017, p.209)

TD Ameritrade

10/31/2017

Jing Zhao
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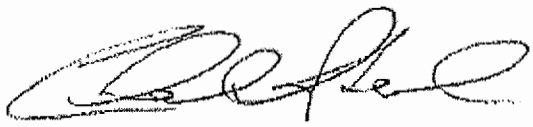
Re: Your TD Ameritrade Account Ending in ***

Dear Jing Zhao,

Thank you for allowing me to assist you today. As you requested, this letter confirms that you have continuously owned 100 shares of eBay Inc. (EBAY) in this TD Ameritrade account since October 28, 2016, until today.

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

Sincerely,



Chad Abel
Senior Resource Specialist
TD Ameritrade