



DIVISION OF
CORPORATION FINANCE

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

March 20, 2019

Martin P. Dunn
Morrison & Foerster LLP
mdunn@mof.com

Re: JPMorgan Chase & Co.
Incoming letter dated January 15, 2019

Dear Mr. Dunn:

This letter is in response to your correspondence dated January 15, 2019 concerning the shareholder proposal (the "Proposal") submitted to JPMorgan Chase & Co. (the "Company") by John Chevedden (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 20, 2019 and February 3, 2019. 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,

M. Hughes Bates
Special Counsel

Enclosure

cc: John Chevedden

March 20, 2019

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: JPMorgan Chase & Co.
Incoming letter dated January 15, 2019

The Proposal recommends that the board take the steps necessary to adopt cumulative voting.

We are unable to concur in your view that the Company may exclude the Proposal or portions of the supporting statement under rule 14a-8(i)(3). We are unable to conclude that the portions of the Proposal you reference impugn character, integrity or reputation, without factual foundation, in violation of rule 14a-9. We are also unable to conclude that you have demonstrated objectively that the portions of the supporting statement you reference are materially false or misleading or irrelevant to a consideration of the subject matter of the Proposal such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote. Accordingly, we do not believe that the Company may omit the Proposal or portions of the supporting statement from its proxy materials in reliance on rule 14a-8(i)(3).

Sincerely,

Courtney Haseley
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.

February 3, 2019

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

2 Rule 14a-8 Proposal
JPMorgan Chase & Co. (JPM)
Cumulative Voting
John Chevedden

Ladies and Gentlemen:

This is in regard to the January 15, 2019 no-action request.

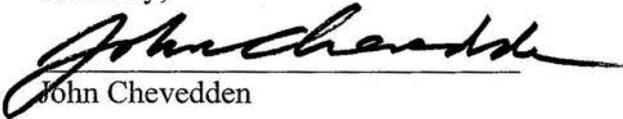
The text in regard to Mr. Weldon is relevant because Mr. Weldon (or a person in his 2018 position) will need to approve the management opposition statement to this proposal.

The extraordinary opposition to a well-established precatory rule 14a-8 proposal displayed by Mr. Weldon in 2018 is relevant to shareholder consideration of the 2019 company opposition statement.

The text in regard to Mr. Weldon is also relevant to enable shareholders to evaluate company statements like this that were in the 2018 proxy:
“Our commitment to sound governance is integral to our business.”

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,


John Chevedden

cc: Molly Carpenter <molly.carpenter@jpmchase.com>

JOHN CHEVEDDEN

January 20, 2019

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

1 Rule 14a-8 Proposal
JPMorgan Chase & Co. (JPM)
Cumulative Voting
John Chevedden

Ladies and Gentlemen:

This is in regard to the January 15, 2019 no-action request.

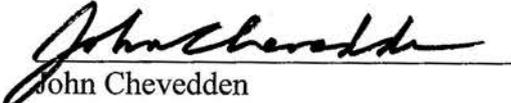
The company does not contest the factual basis of the 13-lines of the proposal that it does not like.

Attached are 14-lines in the opposition statement to the 2018 rule 14a-8 proposal for cumulative voting from the company proxy that are not directly related to cumulative voting.

One could say that the company's 14-lines serve "no informative purpose" in connection to cumulative voting. But it would be utterly impossible for a shareholder to prevent any company from publishing 14-lines like these.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,


John Chevedden

cc: Molly Carpenter <molly.carpenter@jpmchase.com>

Furthermore, a director elected by a small group of shareholders could face a conflict between the fiduciary duty owed to all shareholders and the allegiance to the shareholder or group that elected him or her. In contrast, allowing each share of common stock to have one vote for each director nominee encourages accountability of each director to all of our shareholders.

We are committed to strong corporate governance that promotes long-term shareholder value. Our governance policies and practices reflect our high standards of independence, transparency and shareholder rights, including:

- Majority voting for the election of directors in uncontested elections
- Annual election of all directors
- Strong Lead Independent Director role
- More than 90% of the Board and 100% of the Board's five principal standing committees are composed of independent directors
- Shareholders have explicit rights to call special meetings and to act by written consent
- Shareholders have the right to proxy access

Because each director oversees the management of the Firm for the benefit of all shareholders, the Board believes that changing the current voting procedures would not be in the best interests of all shareholders.

✕ The Board of Directors recommends a vote **AGAINST** this proposal.

[JPM – Rule 14a-8 Proposal, December 5, 2018]
[This line and any line above it is not for publication.]

Proposal [4] – Cumulative Voting

Resolved: Cumulative Voting. Shareholders recommend that our Board take the steps necessary to adopt cumulative voting. Cumulative voting means that each shareholder may cast as many votes as equal to number of shares held, multiplied by the number of directors to be elected. A shareholder may cast all such cumulated votes for a single candidate or focus on a few candidates. Under cumulative voting shareholders can withhold votes from poor-performing directors in order to cast multiple votes for other director candidates. This is an important protection for shareholders.

Cumulative voting also allows a significant group of shareholders to elect a director of its choice – to safeguard minority shareholder interests and to bring a greater independent risk management perspective to Board decisions. Cumulative voting won 54%-support at Aetna and 51%-support at Alaska Air. It also received 53%-support at General Motors in two annual elections. The Council of Institutional Investors and CalPERS recommended adoption of this proposal topic.

Cumulative voting can be used to elect one director with a highly focused specialization in banking risk management. This is of utmost importance because shareholders of big banks have paid \$10s of billions in fines since big bank managers failed to prevent misconduct related to Bernie Madoff's Ponzi scheme, mortgage securities sales, energy market manipulation, military lending, foreclosures, municipal securities, collateralized debt obligations, mortgage servicing and foreign exchange rigging.

Hopefully William Weldon, chairman of the Board Governance Committee and the JPM Board of Directors will not try to prevent us from voting on this shareholder proposal which previously received 33%-support at JPM.

JPM prevented us from voting on a special shareholder meeting fix-it proposal in 2018. Mr. Weldon received 10-times as many negative votes in 2018 as certain other JPM directors after his brazen 2018 effort to restrict the shareholder right to vote on such a well-established shareholder proposal at such an important company as JPM.

Hopefully Mr. Weldon will not try to export a similar lid on the voice of shareholders to ExxonMobil and CVS Health where Mr. Weldon is also a director. At CVS shareholder proposals such as this have taken a leadership role in improving the governance rules of CVS. After receiving shareholder proposals CVS adopted a shareholder right to act by written consent (2012), eliminated uphill 67% shareholder vote requirements (2013) and adopted a more practical rule for shareholders to call for a special meeting (2018).

Please vote yes:

Cumulative Voting – Proposal [4]

[The line above is for publication.]

Writer's Direct Contact
+1 (202) 778-1611
MDunn@mofocom

Exchange Act/Rule 14a-8

January 15, 2019

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: JPMorgan Chase & Co.
Shareholder Proposal of John Chevedden

Dear Ladies and Gentlemen:

We submit this letter on behalf of our client JPMorgan Chase & Co., a Delaware corporation (the "**Company**"), which requests confirmation that the staff (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 under the Securities Exchange Act of 1934 (the "**Exchange Act**"), the Company omits the enclosed shareholder proposal (the "**Proposal**"), or portions thereof, submitted by John Chevedden (the "**Proponent**") from the Company's proxy materials for its 2019 Annual Meeting of Shareholders (the "**2019 Proxy Materials**").

Pursuant to Rule 14a-8(j) under the Exchange Act, we have:

- filed this letter with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2019 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

Copies of the Proposal, the Proponent's cover letter submitting the Proposal, and other correspondence relating to the Proposal are attached hereto as Exhibit A.

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
January 15, 2019
Page 2

Pursuant to the guidance provided in Section F of Staff Legal Bulletin No. 14F (Oct. 18, 2011), we ask that the Staff provide its response to this request to Martin Dunn, on behalf of the Company, via email at mdunn@mofo.com, and to the Proponent via email at

I. THE PROPOSAL

On December 5, 2018, the Company received from the Proponent the Proposal for inclusion in the Company's 2019 Proxy Materials. The Proposal reads as follows:

"Proposal [4] – Cumulative Voting

Resolved: Cumulative Voting. Shareholders recommend that our Board take the steps necessary to adopt cumulative voting. Cumulative voting means that each shareholder may cast as many votes as equal to number of shares held, multiplied by the number of directors to be elected. A shareholder may cast all such cumulated votes for a single candidate or focus on a few candidates. Under cumulative voting shareholders can withhold votes from poor-performing directors in order to cast multiple votes for other director candidates. This is an important protection for shareholders.

Cumulative voting also allows a significant group of shareholders to elect a director of its choice - to safeguard minority shareholder interests and to bring a greater independent risk management perspective to Board decisions. Cumulative voting won 54%-support at Aetna and 51 %-support at Alaska Air. It also received 53%-support at General Motors in two annual elections. The Council of Institutional Investors and CalPERS recommended adoption of this proposal topic.

Cumulative voting can be used to elect one director with a highly focused specialization in banking risk management. This is of utmost importance because shareholders of big banks have paid \$10s of billions in fines since big bank managers failed to prevent misconduct related to Bernie Madoff's Ponzi scheme, mortgage securities sales, energy market manipulation, military lending, foreclosures, municipal securities, collateralized debt obligations, mortgage servicing and foreign exchange rigging.

Hopefully William Weldon, chairman of the Board Governance Committee and the JPM Board of Directors will not try to prevent us from voting on this shareholder proposal which previously received 33%-support at JPM.

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
January 15, 2019
Page 3

JPM prevented us from voting on a special shareholder meeting fix-it proposal in 2018. Mr. Weldon received 10-times as many negative votes in 2018 as certain other JPM directors after his brazen 2018 effort to restrict the shareholder right to vote on such a well-established shareholder proposal at such an important company as JPM.

Hopefully Mr. Weldon will not try to export a similar lid on the voice of shareholders to ExxonMobil and CVS Health where Mr. Weldon is also a director. At CVS shareholder proposals such as this have taken a leadership role in improving the governance rules of CVS. After receiving shareholder proposals CVS adopted a shareholder right to act by written consent (2012), eliminated uphill 67% shareholder vote requirements (2013) and adopted a more practical rule for shareholders to call for a special meeting (2018).

*Please vote yes:
Cumulative Voting – Proposal [4]”*

II. EXCLUSION OF THE PROPOSAL

A. Basis for Excluding the Proposal

As discussed more fully below, the Company believes it may properly omit the Proposal or portions thereof from its 2019 Proxy Materials in reliance on Rule 14a-8(i)(3) because the Proposal is materially false and misleading and contrary to Rule 14a-9, on the basis of the following:

- the Proposal includes material that is irrelevant to consideration of the subject matter of the Proposal; and
- the Proposal contains materially false and misleading statements, including statements that impugn the character, integrity and reputation of the Company’s directors.

B. The Proposal May Be Omitted in Reliance On Rule 14a-8(i)(3) Because It Is Materially False and Misleading and Contrary to Rule 14a-9

Rule 14a-8(i)(3) permits a company to omit a proposal or supporting statement, or portions thereof, that are contrary to any of the Commission’s proxy rules, including Rule 14a-9, which prohibits materially false and misleading statements in proxy materials. The Company is of the view that the Proposal contains statements that are materially false and misleading, such that the Proposal may be omitted in its entirety. In the alternative, if the Staff does not agree, the

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
January 15, 2019
Page 4

Company is of the view that certain portions of the Proposal as described below may be properly excluded from the Proposal as they contain statements that are irrelevant and materially false and misleading.

1. The Proposal Includes Material That Is Irrelevant To Consideration of the Subject Matter of the Proposal

Rule 14a-8(i)(3) permits a company to omit a proposal that is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false and misleading statements in proxy materials. In Staff Legal Bulletin No. 14 (July 31, 2000) ("**SLB 14**"), the Staff stated that "when a proposal and supporting statement will require detailed and extensive editing in order to bring them into compliance with the proxy rules, [the Staff] may find it appropriate for companies to exclude the entire proposal, supporting statement, or both, as materially false or misleading."

In considering the application of Rule 14a-8(i)(3) to the Proposal, the Company particularly notes the final three full paragraphs of the Proposal. In the first and second of those final three paragraphs, the Proponent impugns the character of the Company's board of directors generally, and Mr. William Weldon directly, by indicating that the board of directors has in the past and may in the future act in a manner that is contrary to their fiduciary duties – "Hopefully William Weldon, chairman of the Board Governance Committee and the JPM Board of Directors will not try to prevent us from voting on this shareholder proposal ... JPM prevented us from voting on a special shareholder meeting fix-it proposal in 2018. Mr. Weldon received 10-times as many negative votes in 2018 as certain other JPM directors after his brazen 2018 effort to restrict the shareholder right to vote on such a well-established shareholder proposal at such an important company as JPM." In the third of those final three paragraphs, the Proponent impugns Mr. Weldon and discusses corporate governance practices at other companies, which has no relevance to the Proposal: "Hopefully Mr. Weldon will not try to export a similar lid on the voice of shareholders to ExxonMobil and CVS Health where Mr. Weldon is also a director. At CVS shareholder proposals such as this have taken a leadership role in improving the governance rules of CVS. After receiving shareholder proposals CVS adopted a shareholder right to act by written consent (2012), eliminated uphill 67% shareholder vote requirements (2013) and adopted a more practical rule for shareholders to call for a special meeting (2018)." Based on the specific language of the Proposal, the Company is of the view that exclusion of the entire Proposal is appropriate and consistent with Rule 14a-8, SLB 14 and SLB 14B.

The Proposal's focus on the board of directors and William Weldon, chairman of the Board Governance Committee, specifically, is at best irrelevant to the Proposal's subject matter of cumulative voting. The derogatory assertions regarding the board's and Mr. Weldon's involvement in the Company's shareholder proposal process bear no relation to the underlying subject matter of the Proposal. Moreover, the Proposal's discussion of Mr. Weldon's other

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
January 15, 2019
Page 5

directorships and actions undertaken by such other companies is irrelevant to the Company and its shareholders' consideration of this Proposal. As those statements serve no informative purpose in connection with the subject matter of the Proposal, their inclusion illustrates that the Proposal is aimed, at least in part, not on cumulative voting, but rather on impugning the character of the board of directors generally and a specific named director.

As a result of those statements, a reasonable shareholder could be confused as to whether this Proposal asks shareholders to vote on a cumulative voting provision, on a new policy or statement specifically related to the board or a named director, or on some other matter. If that is the intent of the Proposal, Rule 14a-8(c) does not permit a submission to contain more than one proposal, and to prevent backdoor contravention of that rule, SLB 14B allows the exclusion of irrelevant supporting statements in situations such as this, where, effectively, more than one proposal is printed and submitted to shareholders on the same page. If that is not the intent, the Proposal should nonetheless be stricken because there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.

The three paragraphs regarding the board and Mr. Weldon constitute a substantial portion of the Proposal, are entirely irrelevant to a consideration of the subject matter of the Proposal, are materially false and misleading, and could cause uncertainty for a reasonable shareholder as to the specific matter on which he or she is being asked to vote. Accordingly, the Company is of the view that it may omit the entire Proposal in reliance on Rule 14a-8(i)(3).

2. *The Proposal Contains Materially False and Misleading Statements, Including Statements That Impugn Character, Integrity and Reputation*

Pursuant to Note (b) to Rule 14a-9 and SLB 14B, a statement that impugns integrity, character or reputation without factual foundation is misleading within the meaning of Rule 14a-9. Applying these standards, the Staff has supported the exclusion of entire proposals that contain such statements, on the basis that such proposals were false and misleading. *See, e.g., ConocoPhillips* (Mar. 13, 2012) (concurring in the exclusion of a proposal suggesting ConocoPhillips participated in money laundering); *Philip Morris Cos. Inc.* (Feb. 7, 1991) (concurring in the exclusion of a proposal suggesting the company "advocates or encourages bigotry and hate"); *Motorola, Inc.* (Mar. 4, 1988) (concurring in the exclusion of a proposal suggesting the company violated the proxy rules); *Detroit Edison Co.* (Mar. 4, 1983) (concurring in the exclusion of a proposal suggesting the company unlawfully influenced the political process and engaged in "circumvention of regulation" and "corporate self-interest"); *Gulf & Western Industries, Inc.* (Oct. 23, 1975) (concurring in the exclusion of a proposal suggesting the company was responsible for "acts of violence").

As discussed above, the last three paragraphs of the Proposal focus inappropriately on one director, the Company's board of directors and on irrelevant historical and non-Company

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
January 15, 2019
Page 6

matters. Specifically, the supporting statement alleges that the board and Mr. Weldon may misuse their positions to improperly interfere in the shareholder proposal process. Such an allegation is completely false and devoid of any factual foundation, seeks to indicate a failure to comply with directors' fiduciary duties and, accordingly, is designed to attack the character of every member of the board of directors generally and of Mr. Weldon specifically. The statements also are materially false and misleading because the Proponent asserts that Mr. Weldon unilaterally directed the Company's actions on matters that were taken by the board and its committees, that were based in part on guidance from the Staff, with respect to an unrelated shareholder proposal. In addition, the Proponent also uses Mr. Weldon's other directorships in an attempt to further impugn his character, and the suggestions in this regard as to Mr. Weldon's on-going service on other boards is wholly inappropriate and also lacking in any factual foundation.

The materiality under Rule 14a-8(i)(3) of the Proposal's false and misleading assertions regarding corporate governance matters is demonstrated by the court's holding in *Express Scripts Holding Co. v. Chevedden*, 2014 WL 631538, at *4 (E.D. Mo. Feb. 18, 2014). There, in the context of a proposal that sought to separate the positions of chief executive officer and chairman, the court held that, "when viewed in the context of soliciting votes in favor of a proposed corporate governance measure, statements in the proxy materials regarding the company's existing corporate governance practices are important to the shareholder's decision whether to vote in favor of the proposed measure," and therefore are material. Applying *Express Scripts* to the Proposal demonstrates that the false and misleading statements in the Proposal would be material to shareholders' voting decisions regarding the Proposal. Just as in *Express Scripts*, the statements discussed above are misleading because they mischaracterize the motivations and independence of one of the Company's directors and the board of directors as a whole in connection with existing governance practices, which goes to the heart of a shareholder's determination of whether the additional actions requested in the Proposal are necessary.

The Company, therefore, is of the view that it may properly omit the Proposal in reliance on Rule 14a-8(i)(3), because the Proposal and the statements therein that impugn the board's and Mr. Weldon's character, integrity and reputation, are materially false and misleading and contrary to Rule 14a-9.

3. ***If the Staff does not concur that the entire Proposal can be omitted, the Company is of the view that it may omit the last three full paragraphs of the Proposal because they contain false and misleading statements that violate Rule 14a-9***

If the Staff does not agree with the Company's view that the entire Proposal may be omitted, the Company is of the view that the last three full paragraphs of the Proposal may be

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
January 15, 2019
Page 7

properly omitted from the Proposal as they contain materially false and misleading statements that violate Rule 14a-9.

Staff Bulletin No. 14B (Sept. 15, 2004) (“**SLB 14B**”) clarified the Staff’s views on the application of Rule 14a-8(i)(3) and Rule 14a-9, and notes that a statement within a proposal or supporting statement may be excluded or modified in reliance on Rule 14a-8(i)(3) when “substantial portions of the supporting statement are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which she is being asked to vote.” Pursuant to that standard, the Staff has permitted exclusion of supporting statements that are irrelevant to the action sought by the Proposal. *See, e.g., Bob Evans Farms, Inc.* (Jan. 26, 2006) (permitting exclusion of a portion of the supporting statement that “fail[ed] to discuss the merits” of the proposal and did not aid shareholders in deciding how to cast their votes); *Burlington Northern Santa Fe Corp.* (Jan. 31, 2001) (permitting exclusion of supporting statement involving racial and environmental policies as irrelevant to a proposal seeking shareholder approval of poison pills); *Boise Cascade Corp.* (Jan. 23, 2001) (permitting exclusion of supporting statements regarding the director election process, environmental and social issues and other topics unrelated to a proposal calling for the separation of the CEO and chairman); *Freeport-McMoRan Copper & Gold Inc.* (Feb. 22, 1999) (permitting exclusion of a proposal unless revised to delete discussion of a news article regarding alleged conduct by the company’s chairman and directors that was irrelevant to the proposal’s subject matter, the annual election of directors). As discussed in detail above, the last three full paragraphs of the Proposal contain information that is materially false and misleading and bears no relation to the underlying subject matter of the Proposal. Consistent with the Staff no-action responses noted above and the discussion in Section II.B.1 regarding the materially false and misleading statements contained within the Proposal, the Company is of the view that it may omit the last three full paragraphs of the Proposal from the 2019 Proxy Materials as they contain false and misleading statements.

The Staff has concurred with the omission of language from a proposal or supporting statement that seeks to impugn the character of members of management or the board as being false and misleading. *See, e.g., Honeywell International Inc.* (Oct. 26, 2001) (requiring deletion of a sentence that the company argued was inaccurate and an attempt to impugn the character of company officers); *Electronic Data Systems Corp.* (Mar. 11, 1999) (requiring deletion of a statement that the company argued was inaccurate and lacked factual foundation). Moreover, the Staff has specifically permitted the exclusion of statements that suggest or imply that directors or members of management were not faithfully exercising their fiduciary obligations or were otherwise disregarding the interests of shareholders. *See, e.g., Piper Jaffray Cos.* (Feb. 24, 2006), (excluding an accusation that members of management had “disregard for shareholders’ interests”); *Phoenix Gold bzt’l, Inc.* (Nov. 11, 2000) (excluding statement that implied that directors are not independent); *CCBT Bancorp, bzc.* (Apr. 20, 1999) (excluding statement that board violated their fiduciary duty); *Broadway Fin. Corp.* (Mar. 6, 1991) (excluding statement

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
January 15, 2019
Page 8

that suggested that “legitimate questions [had arisen as to] . . . possible breach of fiduciary obligations” by management); *Swiss Helvetia Fund, Inc.* (Mar. 6, 2001) (excluding entire proposal that asked shareholders to “recommend that the directors not try to violate their fiduciary duties,” on the basis that such a phrase “implies that the directors have violated, or may choose to violate, their fiduciary duty”). As discussed in detail in Section II.B.2 above, the last three paragraphs of the Proposal seek to impugn the integrity, character and reputation of the Company’s directors generally and one of the Company’s directors specifically without any factual basis by tying the Company’s shareholder proposal no-action requests to improper governance and fiduciary practices, which were precisely the types of accusations permitted to be excluded from the proposals cited above. As such, the Company is of the view that it may omit the last three full paragraphs of the Proposal from the 2019 Proxy Materials as they contain false and misleading statements.

III. CONCLUSION

For the reasons discussed above, the Company believes that it may properly omit the Proposal from its 2019 Proxy Materials in reliance on Rule 14a-8. As such, we respectfully request that the Staff concur with the Company’s view and not recommend enforcement action to the Commission if the Company omits the Proposal from its 2019 Proxy Materials. If we can be of further assistance in this matter, please do not hesitate to contact me at (202) 778-1611.

Sincerely,



Martin P. Dunn
Morrison & Foerster LLP

Attachments

cc: John Chevedden
Molly Carpenter, Corporate Secretary, JPMorgan Chase & Co.

EXHIBIT A

Ashton, Deb

From: ***
Sent: Wednesday, December 05, 2018 5:36 PM
To: Carpenter, Molly
Cc: Caracciolo, Irma R.; Scott, Linda E; Corporate Secretary
Subject: Rule 14a-8 Proposal (JPM)
Attachments: CCE05122018_7.pdf

Categories: EXTERNAL

Dear Ms. Carpenter,

Please see the attached rule 14a-8 proposal to improve corporate governance and enhance long-term shareholder value at de minimis cost – especially considering the substantial market capitalization of the company.

Sincerely,
John Chevedden

JOHN CHEVEDDEN

Ms. Molly Carpenter
Corporate Secretary
JPMorgan Chase & Co. (JPM)
270 Park Ave.
38th Floor
New York NY 10017
PH: 212-270-6000

Dear Ms. Carpenter,

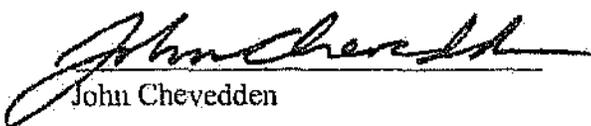
This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial capitalization of our company.

This proposal is for the annual shareholder meeting. Rule 14a-8 requirements will be met including the continuous ownership of the required stock value until after the date of the respective shareholder meeting and presentation of the proposal at the annual meeting. This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Your consideration and the consideration of the Board of Directors is appreciated in support of the long-term performance of our company. Please acknowledge receipt of this proposal by email to

Sincerely,


John Chevedden

December 5, 2015
Date

cc: Irma Caracciolo <caracciolo_irma@jpmorgan.com>
FX: 212-270-1648
Linda E. Scott <linda.e.scott@chase.com>
corporate.secretary@jpmorganchase.com

[JPM – Rule 14a-8 Proposal, December 5, 2018]
[This line and any line above it is not for publication.]

Proposal [4] – Cumulative Voting

Resolved: Cumulative Voting. Shareholders recommend that our Board take the steps necessary to adopt cumulative voting. Cumulative voting means that each shareholder may cast as many votes as equal to number of shares held, multiplied by the number of directors to be elected. A shareholder may cast all such cumulated votes for a single candidate or focus on a few candidates. Under cumulative voting shareholders can withhold votes from poor-performing directors in order to cast multiple votes for other director candidates. This is an important protection for shareholders.

Cumulative voting also allows a significant group of shareholders to elect a director of its choice – to safeguard minority shareholder interests and to bring a greater independent risk management perspective to Board decisions. Cumulative voting won 54%-support at Aetna and 51%-support at Alaska Air. It also received 53%-support at General Motors in two annual elections. The Council of Institutional Investors and CalPERS recommended adoption of this proposal topic.

Cumulative voting can be used to elect one director with a highly focused specialization in banking risk management. This is of utmost importance because shareholders of big banks have paid \$10s of billions in fines since big bank managers failed to prevent misconduct related to Bernie Madoff's Ponzi scheme, mortgage securities sales, energy market manipulation, military lending, foreclosures, municipal securities, collateralized debt obligations, mortgage servicing and foreign exchange rigging.

Hopefully William Weldon, chairman of the Board Governance Committee and the JPM Board of Directors will not try to prevent us from voting on this shareholder proposal which previously received 33%-support at JPM.

JPM prevented us from voting on a special shareholder meeting fix-it proposal in 2018. Mr. Weldon received 10-times as many negative votes in 2018 as certain other JPM directors after his brazen 2018 effort to restrict the shareholder right to vote on such a well-established shareholder proposal at such an important company as JPM.

Hopefully Mr. Weldon will not try to export a similar lid on the voice of shareholders to ExxonMobil and CVS Health where Mr. Weldon is also a director. At CVS shareholder proposals such as this have taken a leadership role in improving the governance rules of CVS. After receiving shareholder proposals CVS adopted a shareholder right to act by written consent (2012), eliminated uphill 67% shareholder vote requirements (2013) and adopted a more practical rule for shareholders to call for a special meeting (2018).

Please vote yes:

Cumulative Voting – Proposal [4]
[The line above is for publication.]

Notes:

John Chevedden,

sponsored this proposal.

Proposal [4] – Means [4] is the placeholder for the company to assign the number in the proxy.

Please note that the title of the proposal is part of the proposal. In the interest of clarity and to avoid confusion the title of this and each other ballot item is requested to be consistent throughout all the proxy materials.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

Stock will be held until after the annual meeting and the proposal will be presented at the annual meeting.
Please acknowledge this proposal promptly by email

Caracciolo, Irma R.

From: Corporate Secretary
Sent: Monday, December 10, 2018 2:57 PM
To: ***
Cc: Scott, Linda E; Corporate Secretary; Carpenter, Molly
Subject: RE: Rule 14a-8 Proposal (JPM)`` Chevedden (Cumulative Voting)
Attachments: Rule 14a-8_Attachment.pdf; SLB 14F_(12790357)_(1).pdf; Signed SH Acknowledgement - Chevedden_(22561449)_(1).pdf

Dear Mr. Chevedden

Attached is a copy of our letter regarding the shareholder proposal submitted for inclusion in the proxy materials relating to JPMC's 2019 Annual Meeting of Shareholders.

Thank you

Irma Caracciolo

Corporate Secretary | 270 Park Avenue, Mail Code: NY1-K721, New York, NY 10017 | W: 212-270-7122 | F: 212-270-4240 | F: 646-534-2396 | corporate.secretary@jpmchase.com

From: ***
Sent: Wednesday, December 05, 2018 5:36 PM
To: Carpenter, Molly <molly.carpenter@jpmchase.com>
Cc: Caracciolo, Irma R. <caracciolo_irma@jpmorgan.com>; Scott, Linda E <linda.e.scott@chase.com>; Corporate Secretary <corporate.secretary@jpmchase.com>
Subject: Rule 14a-8 Proposal (JPM)``

Dear Ms. Carpenter,

Please see the attached rule 14a-8 proposal to improve corporate governance and enhance long-term shareholder value at de minimis cost – especially considering the substantial market capitalization of the company.

Sincerely,

John Chevedden

JPMORGAN CHASE & CO.

Molly Carpenter
Corporate Secretary
Office of the Secretary

December 10, 2018

VIA EMAIL & OVERNIGHT DELIVERY

Mr. John Chevedden

Dear Mr. Chevedden:

I am writing on behalf of JPMorgan Chase & Co. ("JPMC") which received from you (the "Proponent"), via email on December 5, 2018, the shareholder proposal titled "Cumulative Voting" (the "Proposal") for consideration at JPMC's 2019 Annual Meeting of Shareholders.

The Proposal contains certain procedural deficiencies, as set forth below, which Securities and Exchange Commission ("SEC") regulations require us to bring to your attention.

Ownership Verification

Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that each shareholder proponent must submit sufficient proof that it has continuously held at least \$2,000 in market value, or 1%, of a company's shares entitled to vote on the proposal for at least one year as of the date the shareholder proposal was submitted. JPMC's stock records do not indicate that the Proponent is the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received proof from the Proponent that it has satisfied Rule 14a-8's ownership requirements as of the date that the Proposal was submitted to JPMC. In this regard, our records indicate that you submitted the Proposal on December 5, 2018.

To remedy this defect, you must submit sufficient proof of ownership of JPMC shares. As explained in Rule 14a-8(b), sufficient proof may be in one of the following forms:

- A written statement from the "record" holder of the shares (usually a broker or a bank) verifying that, as of the date the Proposal was submitted (i.e., December 5, 2018), the Proponent continuously held the requisite number of JPMC shares for at least one year.
- If the Proponent has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting ownership of JPMC shares as of or before the date on which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that the Proponent continuously held the required number of shares for the one-year period.

To help shareholders comply with the requirement to prove ownership by providing a written statement from the "record" holder of the shares, the SEC's Division of Corporation Finance (the "SEC Staff") published Staff Legal Bulletin No. 14F ("SLB 14F"). In SLB 14F, the SEC Staff

270 Park Avenue, New York, New York 10017-2070
Telephone 212-270-7122 Facsimile 212 270 4240 molly.carpenter@jpmchase.com
JPMorgan Chase & Co.

22307612

stated that only brokers or banks that are Depository Trust Company ("DTC") participants will be viewed as "record" holders for purposes of Rule 14a-8. Thus, you will need to obtain the required written statement from the DTC participant through which your shares are held. If you are not certain whether your broker or bank is a DTC participant, you may check the DTC's participant list, which is currently available on the Internet at:

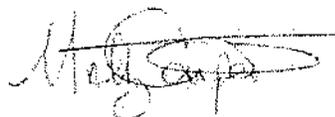
<http://www.dtcc.com/~media/Files/Downloads/client-center/DTC/alpha.ashx>. If your broker or bank is not on DTC's participant list, you will need to obtain proof of ownership from the DTC participant through which your securities are held. You should be able to determine the name of this DTC participant by asking your broker or bank. If the DTC participant knows the holdings of your broker or bank, but does not know your holdings, you may satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held by you for at least one year – with one statement from your broker or bank confirming your ownership, and the other statement from the DTC participant confirming the broker or bank's ownership.

For your reference, enclosed is a copy of SEC Rule 14a-8 and SLB 14F.

For the Proposal to be eligible for inclusion in the JPMC's proxy materials for the JPMC's 2019 Annual Meeting of Shareholders, the rules of the SEC require that a response to this letter, correcting all procedural deficiencies described in this letter, be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at 270 Park Avenue, 38th Floor, New York NY 10017 or via email to corporate.secretary@jpmchase.com.

If you have any questions with respect to the foregoing, please contact me.

Sincerely,



Enclosures:

Rule 14a-8 of the Securities Exchange Act of 1934.

Division of Corporation Finance Staff Bulletin No. 14F

Rule 14a-8 — Proposals of Security Holders

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

(a) **Question 1: What is a proposal?**

A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) **Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?**

(1) In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

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

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

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

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

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

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

(c) **Question 3: How many proposals may I submit?**

Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) **Question 4: How long can my proposal be?**

The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) **Question 5: What is the deadline for submitting a proposal?**

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

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

- (3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.
- (f) **Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?**
- (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under Rule 14a-8 and provide you with a copy under Question 10 below, Rule 14a-8(j).
- (2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.
- (g) **Question 7: Who has the burden of persuading the Commission or its staff that my proposal can be excluded?**
- Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.
- (h) **Question 8: Must I appear personally at the shareholders' meeting to present the proposal?**
- (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.
- (2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.
- (3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) **Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?**

- (1) *Improper under state law*: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

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

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

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

- (3) *Violation of proxy rules*: If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

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

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

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

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

- (8) *Relates to election*: If the proposal:

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

- (ii) Would remove a director from office before his or her term expired;
- (iii) Questions the competence, business judgment, or character of one or more nominees or directors;
- (iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or
- (v) Otherwise could affect the outcome of the upcoming election of directors.

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

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

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

Note to paragraph (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by Rule 240.14a-21(b) of this chapter a single year (i.e., one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by rule 240.14a-21(b) of this chapter.

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

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

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

- (ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or
 - (iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and
- (13) *Specific amount of dividends*: If the proposal relates to specific amounts of cash or stock dividends.

(j) Question 10: What procedures must the company follow if it intends to exclude my proposal?

- (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.
- (2) The company must file six paper copies of the following:
 - (i) The proposal;
 - (ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and
 - (iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

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

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

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

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

- (2) The company is not responsible for the contents of your proposal or supporting statement.
- (m) **Question 13: What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?**
- (1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.
 - (2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, Rule 14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.
 - (3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:
 - (i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or
 - (ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under Rule 14a-6.

**Division of Corporation Finance
Securities and Exchange Commission**

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

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

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

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

A. The purpose of this bulletin

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

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

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

The submission of revised proposals;

Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and

The Division's new process for transmitting Rule 14a-8 no-action responses by email.

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

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

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

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

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

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

2. The role of the Depository Trust Company

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

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

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.⁶ Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements.

Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

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

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

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

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

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

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

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

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

other from the DTC participant confirming the broker or bank's ownership.

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

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

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

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

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

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

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

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

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

D. The submission of revised proposals

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹ See Rule 14a-8(b).

² For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as

compared to “beneficial owner” and “beneficial ownership” in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. See Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 (“The term ‘beneficial owner’ when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.”).

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

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

⁵ See Exchange Act Rule 17Ad-8.

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

⁷ See *KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden*, 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company’s non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

⁸ *Techne Corp.* (Sept. 20, 1988).

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

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

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

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

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

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

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

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

Ashton, Deb

From: ***
Sent: Friday, December 14, 2018 9:17 PM
To: Carpenter, Molly
Cc: Caracciolo, Irma R.; Scott, Linda E; Corporate Secretary
Subject: Rule 14a-8 Proposal (JPM) blb
Attachments: CCE14122018.pdf

Dear Ms. Carpenter,
Please see the attached broker letter.
Sincerely,
John Chevedden

Personal Investing

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



December 14, 2018

John R Chevedden

To Whom It May Concern:

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

Please accept this letter as confirmation that as of the date of this letter, Mr. Chevedden has continuously owned no fewer than the share quantity listed in the following table in the following security, since November 2, 2017:

Security Name	CUSIP	Symbol	Share Quantity
United Continental Holdings Inc.	910047109	UAL	50
CBRE Group Inc.	12504L109	CBRE	100
JP Morgan Chase And Co.	46625H100	JPM	100
Alexion Pharmaceuticals Inc.	015351109	ALXN	40
Raytheon Co.	755111507	RTN	100

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

I hope you find this information helpful. If you have any questions regarding this issue, please feel free to contact me by calling 800-397-9945 between the hours of 8:30 a.m. and 5:00 p.m. Eastern Standard Time (Monday through Friday) and entering my extension 13813 when prompted.

Sincerely,

Stormy Delchanty
Personal Investing Operations

W271139-13DEC18

Fidelity Brokerage Services, LLC. Members NYSE, SIPC.

RECEIVED BY THE

DEC 14 2018

OFFICE OF THE SECRETARY