



DIVISION OF
CORPORATION FINANCE

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

March 13, 2020

Louis L. Goldberg
Davis Polk & Wardwell LLP
louis.goldberg@davispolk.com

Re: Exxon Mobil Corporation
Incoming letter dated January 14, 2020

Dear Mr. Goldberg:

This letter is in response to your correspondence dated January 14, 2020 and February 6, 2020 concerning the shareholder proposal (the "Proposal") submitted to Exxon Mobil Corporation (the "Company") by BNP Paribas Asset Management (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 29, 2020 and February 11, 2020. 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>.

Sincerely,

M. Hughes Bates
Special Counsel

Enclosure

cc: Adam Kanzer
BNP Paribas Asset Management
adam.kanzer@bnpparibas.com

March 13, 2020

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Exxon Mobil Corporation
Incoming letter dated January 14, 2020

The Proposal requests that the board conduct an evaluation and issue a report describing if, and how, the Company's lobbying activities align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal). The Proposal also indicated that the report should address the risks presented by any misaligned lobbying, and the Company's plans, if any, to mitigate these risks.

There appears to be some basis for your view that the Company may exclude the Proposal under rule 14a-8(i)(11). We note that the Proposal is substantially duplicative of a proposal previously submitted by Boston Trust Walden that will be included in the Company's 2020 proxy materials because the two proposals share a concern for seeking additional transparency from the Company about its lobbying activities and how these activities align with the Company's expressed policy positions, of which one is the Company's stated support of the Paris Climate Agreement. 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)(11).

Sincerely,

Dorrie Yale
Special Counsel



BNP PARIBAS ASSET MANAGEMENT

February 11, 2020

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

Via email: shareholderproposals@sec.gov

Re: **Shareholder Proposal to Exxon Mobil Corporation Seeking a Climate Lobbying Report**

Ladies and Gentlemen:

We are writing in response to a letter dated February 6, 2020 (“the Supplemental Letter”), supplementing an earlier letter dated January 14, 2020, from counsel for Exxon Mobil Corporation (“Exxon” or “the Company”)(Exhibit A, w/o attachments) asking the Office of the Chief Counsel of the Division of Corporation Finance to confirm that it will not recommend enforcement action if the Company omits a shareholder proposal (the “Proposal”) submitted pursuant to the Commission’s Rule 14a-8 by BNP Paribas Asset Management (“BNPP AM”). This letter supplements our letter of January 29 (Exhibit B, w/o attachments).

The Company argues that it is entitled to omit the Proposal in reliance on Rule 14a-8(i)(11), which allows omission of a proposal that “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.” For the reasons set forth below and in our previous letter, the Company has not met its burden of proof under Rule 14a-8(g). Accordingly, BNPP AM respectfully requests that the Division not grant the relief sought by the Company.

There is No Material Difference Between the Correct Prior Proposal (Walden) and the Previously Submitted Prior Proposal (Steelworkers)

In its Supplemental Letter, the Company’s counsel informed Staff that it had included the wrong “Prior Proposal” as an attachment to its initial no-action request, although its arguments were based on the correct proposal. As a result of this error, portions of the argumentation in our letter of January 29th were based on an analysis of the wrong proposal, although our position remains the same, as there is no material difference between the Boston Trust Walden proposal and the Steelworkers proposal the Company inadvertently presented in its January 14th letter. As the Company has provided only a heavily marked-up version of the Prior Proposal, a clean version of the Proposal and Prior Proposal are attached hereto as Exhibits C and D, respectively.



The Prior Proposal is a form of proposal that has been submitted to more than 100 companies for more than a decade, with very slight variations (the “Traditional Lobbying Proposal”). This proposal has defined the standard parameters for corporate lobbying reports. Similar to a parallel proposal focused on corporate political campaign contributions, the proposal seeks disclosure of policies and procedures governing lobbying and an itemized listing of lobbying expenditures, including the portion of dues paid to trade associations that are used for political lobbying on behalf of their corporate members (‘indirect lobbying’). Exxon Mobil has received this proposal for several consecutive years.

The Traditional Lobbying proposal has been submitted to many companies, in a variety of industries. For some industries, climate change is a material risk. For others, healthcare reform or pharmaceutical pricing are key risks. Proponents seek to tailor the proposal to each individual company to encourage shareholders to vote for it, and to ensure the proposal, in Staff’s language, is “significant” to the company.

The reference to climate change in the Prior Proposal’s Supporting Statement was added recently as an example of the risks of the Company’s lobbying activities, and of the concerns motivating the proponents. This reference does not change the principal thrust of the proposal, which, as the Company correctly states in its January 14 letter, is “broad in scope and focuses on overall lobbying expenditures....” (January 14th letter, at 3)

The Company is now arguing that these references transform the principal thrust of the Prior Proposal from a Traditional Lobbying Proposal to a Climate Lobbying Proposal. However, while the analysis of misalignment with the Paris Agreement’s goal is the principal thrust of the Proposal (in fact, its sole focus), the Prior Proposal’s sole reference to climate change amounts to a portion of that proposal’s Supporting Statement. To accept the Company’s argument that these references to climate change define the principal thrust of the Prior Proposal, Staff must ignore the Prior Proposal’s Resolved clause. The Prior Proposal does not seek a climate lobbying report, nor does it seek a report that somehow “contains” a climate lobbying report within it. It seeks an entirely different kind of report than the Proposal.

These references to climate change were added to the Prior Proposal’s Supporting Statement as merely one example of the kinds of risks the Company faces, and only one among several reasons provided for shareholders to support the proposal, including:

- The size of Exxon’s federal lobbying expenditures;
- Gaps in current disclosure of lobbying expenditures, necessitating the requested report;
- The fact that Exxon lobbies abroad and these foreign expenditures would not be captured in any U.S. federal reporting;
- Concerns regarding Exxon’s membership in several large trade associations;
- Concerns regarding two trade associations’ opposition to Rule 14a-8;
- Exxon’s lack of disclosure of its memberships or its payments to such organizations; and
- Reputational risks presented by lobbying that may contradict the company’s positions or undermine the Paris Agreement.

The discussion of climate change at the end of the Prior Proposal’s Supporting Statement is merely illustrative of a kind of reputational risk, provided to persuade investors to support the proposal’s broad



request for lobbying disclosure. It does not alter the very precise elements of the Prior Proposal's Resolved clause, which makes no reference to climate change or misalignment, and does not include any request for an analysis of any sort, or any request for disclosure of public policy positions on climate change or any other topic.

The Company is Offering Conflicting "Principal Thrust" Arguments

The Company's Supplemental Letter advances at least two sets of contradictory positions that inadvertently highlight how distinct the two proposals are:

- The Prior Proposal is interpreted to be both broad *and* narrow; and
- Both proposals are interpreted to require analysis of policy positions and to *not require* such analysis.

As discussed below, these contradictory arguments are irreconcilable.

The Company explains in its Supplemental Letter that its January 14th letter analysed the correct proposal and its discussion remains "unchanged."¹ However, in its Supplemental Letter, the Company is advancing a different, incorrect interpretation of the Prior Proposal.

The Company has now offered two very different interpretations of the two proposals' principal thrust:

- **First letter:** "The principal thrust and focus of both the Proposal and the Prior Proposal relate to the Company's lobbying expenses. The Prior Proposal is broad in scope and focuses on overall lobbying expenditures by the Company, whether direct or indirect or at the grassroots level, and is either entirely duplicative of the Proposal or encompasses the subject matters raised in the Proposal as follows The Prior Proposal covers the same subject as the Proposal but with a broader scope, and therefore subsumes and incorporates the Proposal, which addresses a subset of issues (limited to the subject of climate change)...."(January 14th letter, at 3)
- **Supplemental Letter:** "the Proposals share the same principal thrust and focus, namely the alignment of the Company's lobbying activities with the Company's publicly stated support for the Paris Climate Agreement, especially through the Company's affiliations with trade associations, and the risks posed by any misalignment." (Supplemental Letter at 4; also see 2)²

In its first letter, the Company asserted that both proposals were principally about lobbying disclosure and the Prior Proposal's broad focus subsumed the Proposal. In its Supplemental Letter, however, the Company has adopted a different interpretation – now it claims that both proposals are focused on alignment with the Paris Agreement.³ The Company is asking Staff to interpret the Prior Proposal as

¹ "The mistake was solely limited to the inclusion of the incorrect proposal as the relevant exhibit in the No-Action Letter. The discussion in the No-Action Letter was based on an analysis of the Prior Proposal, and therefore remains unchanged and continues to be the basis for the reasons that the Company believes the Proposal should be excluded under Rule 14a-8(i)(11)."

² On page 7 of the Supplemental Letter, the Company argues that the Proposals' share the same principal thrust and focus "and the same goals" because they share some of the same "concerns." Many different proposals may be motivated by the same "concerns" and even note these concerns in their Supporting Statements. This does not mean they duplicate each other.

³ The Company's argument extends beyond the four corners of the proposal. In footnote 6 of the Company's Supplemental



being simultaneously broad in scope and narrow in scope. The Company can't seem to decide which principal thrust to offer as the alleged single common purpose of the two proposals. Either one is broad and subsumes the other, or both are narrow, seeking the same analysis. These are incompatible interpretations. In fact, there is no single common purpose – each proposal has a distinct principal thrust.

In addition, the Company's Supplemental Letter misstates the principal thrust of the Proposal, which is focused on alignment with "the goal of limiting average global warming to well below 2 degrees Celsius," and not "alignment with the Company's publicly stated support for the Paris Climate Agreement."

The Company argues that the Proposal does, and does not, seek an 'analysis' of public policy positions

Despite the Company's assertion that the principal thrust of the Proposal relates to Paris alignment, it also argues that the Proposal does not request "a specific analysis of public policy positions relative to the Paris Agreement" and does not seek "a review of policy positions taken, using the Paris Agreement's goal as a benchmark." (Supplemental Letter at 6). It is impossible to see how the Company has overlooked these core elements of the Proposal, as they are stated very clearly in the Proposal's Resolved clause. Inexplicably, *only two sentences later in the very same paragraph*, the Company acknowledges these core elements, noting that it "could be responsive to the Proposal's *request to disclose how its lobbying activities are aligned or misaligned with the Paris Climate Agreement* without ever addressing its general public policy positions on climate change." (*emphasis added*) It isn't clear what the Company is arguing. First, this request to "disclose how [Exxon's] lobbying activities are aligned or misaligned with the Paris Agreement" is the "specific analysis" the Company claims the Proposal does not request. Second, it would not be possible to implement the Proposal without addressing Exxon's general (and particular) public policy positions on climate change.

The Company then advances yet another contradictory position, arguing that because the Prior Proposal and our letter of January 29 both reference Shell's report, "implementation of the Proposals could produce a report with the same information about climate lobbying and be duplicative." (Supplemental Letter at 7) The Prior Proposal does reference the Shell report in the last paragraph of its Supporting Statement, but its Resolved clause precludes the production of such a report. The Prior Proposal was merely noting what one competitor has done to expand its lobbying disclosure and address policy misalignments. The point was offered as evidence that Exxon is falling behind its peers in terms of its lobbying disclosure. Three climate-related examples were provided: strong interest by investors in Paris alignment, Shell's report, and Exxon's alleged failure to fully implement one of the Global Reporting Initiative's standards (GRI Standard 415). The reference to the Shell report in the Prior Proposal's Supporting Statement does not transform the proposal into a request to produce the Shell report, nor

Letter, the Company references a discussion between Exxon Mobil and the proponent of the Prior Proposal where climate lobbying was apparently discussed. These conversations are often wide-ranging, covering many topics. They often extend beyond what a shareholder proposal is requesting. The content of these discussions and the motivation of the proponents, however, is not presented to shareholders for a vote and has no bearing on the Company's no-action request. Further, the lead proponent of the Prior Proposal has informed me that they have offered to withdraw their proposal in exchange for a lobbying report that would not discuss climate change. As the Company has received the 'traditional' lobbying proposal consistently for many years, we believe it is fair to assume that the Company understands what it is being asked to produce.



does the reference to GRI transform the proposal into a request for a GRI report. These are simply offered as indicators to allow shareholders voting on the proposal to benchmark Exxon's reporting. The Prior Proposal requests a dramatically different report than the report Shell published. The Company is once again ignoring the distinction between a proposal's Resolved clause and its Supporting Statement.

Again, the Company is taking contradictory positions, arguing that:

- *Substantial implementation of the Proposal **need not discuss Exxon's positions** on climate (and therefore we have mischaracterized the Proposal); and*
- *Both Proposals are seeking a **comprehensive analysis of Exxon's positions** on climate, similar to what Shell has produced.*

The Company's counsel has inadvertently made our case for us – this series of direct contradictions in argumentation highlights the distinct nature of the two proposals. The only way to argue that they are duplicative is to miscast one as seeking the same disclosure as the other, which the Company does in turn. But these conflicting positions cannot be reconciled.

Just as it isn't possible for the Prior Proposal to be simultaneously broad and narrow (see above), it isn't possible for both proposals to seek an analysis of public policy positions and *also* seek reports that omit such an analysis. It certainly wouldn't be possible to substantially implement the Proposal without discussing Exxon's positions on climate change if it is also true that the Proposal seeks a report similar to what Shell has produced, which focuses exclusively on public policy positions on climate change.

The Company also claims in its Supplemental Letter that we have mischaracterized the Proposal by saying it is about "public policy," when the Proposal doesn't use that term at all, it refers to "lobbying."⁴ Lobbying, by definition, is an effort to influence public policy. Further, it is incorrect that "there are no references to the Company's public policy positions in the Proposal." The Proposal specifically commends the Company for its support for strong methane regulations, a critical climate-related public policy position. All references to "lobbying" or "lobbying activities" in the Proposal refer to the public policy positions the Company is promoting that relate to climate change. The analysis the Proposal requests would be impossible to conduct without a discussion of the public policy positions the Company is advancing through its lobbying activities.

The Proposal Does Not Substantially Duplicate the Prior Proposal

The Proposal and the Prior Proposal make entirely different requests of the Company. In fact, the only commonality between the two proposals is the general category of corporate lobbying. The Proposal seeks a very specific public policy analysis and the Prior Proposal does not. The two seek qualitatively different kinds of reports, with no overlap between them. The reports they request are complementary, not duplicative. Two proposals that touch on the same broad, overarching topic but maintain a distinct "principal thrust" are not excludable under Rule 14a-8(i)(11).

⁴"The Proponent Response Letter claims to address 'public policy,' which is not referenced in the Proposal. The Proposal's stated areas of focus are 'lobbying activities' and 'climate lobbying,' not public policy on climate change. Shareholders are voting on the Proposal, not the depiction of the Proposal in the Proponent Response Letter." (Supplemental Letter at 6)



A side-by-side comparison of the Resolved clauses of the Proposal with the Prior Proposal clearly demonstrates that the only similarity between the two proposals is the general topic of lobbying:

Prior Proposal (Boston Trust Walden)	The Proposal (BNPP AM)
The shareholders of ExxonMobil request the preparation of a report, updated annually, disclosing:	Shareholders request that the Board of Directors conduct an evaluation and issue a report ... describing
1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.	if, and how, Exxon Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal).
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.	The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.
3. Description of management's and the Board's decision-making process and oversight for making payments described above.	
The remainder of the Prior Proposal's Resolved clause is dedicated to definitions of terms and scope. The proposal also requests that the report be presented to the Audit Committee or other relevant oversight committee and be posted on the Company's website.	

[Note that the Prior Proposal's Resolved clause, replicated above, is identical, with the exception of the removal of the phrase "in sections 2 and 3" under Item 3, to the proposal submitted by the Steelworkers that the Company inadvertently included as an attachment to its January 14th letter.]

The principal thrust of the Prior Proposal is a request for full transparency in Exxon's lobbying expenditures, through disclosure of the policies and procedures that govern the Company's lobbying activities, and an itemized list of expenditures, by recipient. The focus is on expenditures – the actual dollars spent on lobbying.

The Proposal, by contrast, is focused squarely on the content of Exxon's climate lobbying – the policy positions taken. The principal thrust of the Proposal is an analysis of the alignment of Exxon's direct and indirect climate lobbying with the goal of the Paris Agreement to maintain average global temperature increases to well below two degrees Celsius.

The Prior Proposal seeks an itemized list of the Company's lobbying "expenditures," but requests no information at all on the public policy positions the Company is promoting. It does not ask the Company



to perform any sort of analysis of its lobbying activities, including any analysis of “alignment” with the Paris Agreement or any other benchmark. It is focused exclusively on process and a listing of expenditures.

The Company references the first whereas clause of the Prior Proposal’s Supporting Statement, which notes that full disclosure will help “assess whether ExxonMobil’s lobbying is consistent with its expressed goals and in shareholder interests.” The Prior Proposal, however, *does not request any such assessment*. The assumption is that disclosure of the Company’s policies, procedures and expenditures will provide the data to permit such an assessment, by shareholders or other third parties. Implicit in this statement is the idea that the requested report would complement, not duplicate, any analysis that may result from disclosure of the Company’s lobbying expenditures. The Prior Proposal does not acknowledge, however, that the data it requests would not permit a full evaluation because it would not include the actual policy positions promoted by the Company’s lobbying efforts.

If substantially implemented, the Prior Proposal would not necessarily provide any of the information requested by the Proposal and most importantly, would not result in a Board-level review of the Company’s lobbying alignment with the Paris Agreement’s goal of maintaining global warming well below 2 degrees Celsius.

Element	Prior Proposal	The Proposal
Lobbying expenditures	Yes	No
Policies and Procedures governing lobbying	Yes	No
Analysis of alignment with Paris goals	No	Yes
Analysis of misalignment risk	No	Yes
Analysis of public policy positions on climate	No	Yes

The Company’s Comparison Table Misrepresents the Two Proposals

The Company has provided a “Comparison Table” in its Supplemental Letter to support its argument that both proposals “seek information and disclosure about climate lobbying, with a focus on the Company’s lobbying activities through trade associations that may or may not be in alignment with the Paris Climate Agreement.” First, there is no reason why this Table couldn’t have been provided in the Company’s initial no-action request. Second, as noted above, the Table supports a different, conflicting interpretation of the Prior Proposal’s principal thrust and therefore a completely different line of argumentation than was offered in the Company’s January 14th letter.

Rather than highlight the principal thrust of each proposal, the Table further confuses matters. The Comparison Table mixes and matches portions of the Prior Proposal’s Supporting Statement with the Proposal’s Resolved clause, eliminating any distinction between the two portions of the proposals. Shareholders do not vote on the Supporting Statement of a proposal, they vote on the Resolved clause. While it is appropriate to review the entire proposal to establish context and meaning, it is not appropriate to disregard a proposal’s Resolved clause in order to elevate a portion of a Supporting Statement. This is precisely what the Company is asking Staff to do, by arguing that a portion of the



Prior Proposal's Supporting Statement transforms the proposal into a request for a "climate lobbying" report, despite the fact that the Resolved clause makes no reference to climate change and would not elicit a report that mentions climate change. The Table also takes phrases out of context and out of the order in which they were presented.

The Company's Comparison Table compares several categories of information:

- Generic/Superficial similarities (both request a report; both ask for board and management oversight);
- Definitional agreement (both proposals address direct and indirect lobbying; both use the same standard understanding of these terms); and
- False Equivalencies (The Proposal's request for a report on alignment with the Paris Agreement's goal is not equivalent to the Prior Proposal's inclusion of Paris Alignment as a potential risk, at the tail-end of the Supporting Statement; The Proposal's reference to "lobbying activities" is not equivalent to the Prior Proposal's request for "Policy and procedures governing lobbying" and "payments by ExxonMobil used for direct or indirect lobbying.").

The Company's Table makes no distinction between the Resolved Clauses and Supporting Statements and therefore presents a confused and misleading picture of the two proposals.

Contrary to the Company's argument that the Prior Proposal seeks more information "along with the focused disclosure about climate lobbying," (Supplemental Letter at 7) the Prior Proposal does not seek any disclosure on climate lobbying. With respect to seeking "more information," the Proposal doesn't seek any of the information requested by the Prior Proposal. Please refer to our letter of January 29 for a more complete rebuttal of the Company's arguments.⁵

The Company objects to my contention that it is making an overbroad argument that encompasses all proposals on "the same topic," noting that it has received numerous climate change-related proposals and has not challenged them as duplicative of each other (Supplemental Letter at 7). A similar Comparison Table, however, could be created for several of the proposals the Company has received comparing categories such as "seeking a report", board oversight, references to climate change, references to "alignment" with the Paris Agreement, etc. The fact that the Company has chosen not to advance this argument with respect to the other proposals it has received takes nothing away from our contention that it has presented an overly broad and untenable application of 14a-8(i)(11).

Staff Precedent Supports the Inclusion of Both Proposals

The Company takes issue with our citation of *Devon Energy Corporation* (March 31, 2014) in support of our argument. Devon received two proposals - a traditional lobbying disclosure proposal virtually identical to the Prior Proposal, and a proposal quite similar to the Proposal, seeking a review of "public

⁵ In our January 29th letter, we cited lobbying reports produced by two other companies to highlight the stark differences between reports produced in compliance with the Traditional Lobbying Proposal and the report the Proposal seeks. The Company argues these two reports were chosen at "random" and implies that they were cherry-picked because they don't discuss climate change. They were not. They were selected as two representative examples – many others could be provided.



policy advocacy on energy policy and climate change.” (“the Devon Second Proposal”) In its Supplemental Letter, the Company seeks to distinguish this letter for three reasons:

- *The Devon Second Proposal is “much broader” than the Proposal because it includes “not only climate lobbying, but the company’s positions, oversight and processes on all forms of public policy advocacy for both energy policy and climate change. Climate lobbying formed only one part of the proposal rather than its entire focus.” The Company notes in a footnote that energy policy is significantly broader than climate change.*

This is a misreading of the Devon Second Proposal, which references climate change and lobbying in virtually every single sentence. The Proposal’s two references to “energy policy” (in its title and Resolved clause) are clearly intended to be within the context of climate change, which is referenced in virtually every sentence of the proposal. Both the Devon Second Proposal and the Proposal address “the company’s positions” (this is what is meant by “direct lobbying”). The Devon proposal is admittedly broader in scope, but it is otherwise very similar to the Proposal.

- *The Devon Second Proposal’s Supporting Statement is broader than a focus on climate lobbying because it seeks “board oversight of [the] company’s public policy advocacy on climate, engagements with climate scientists and other stakeholders involved in climate policy, and company political spending and lobbying on energy policy.”*

The Proposal also seeks board oversight – it is requesting a board review. The Devon Second Proposal “recommended” the inclusion of a few categories of information not addressed by the Proposal – “expenditures”, campaign contributions and engagements with climate scientists and other stakeholders. Otherwise, “public policy advocacy on climate” and engagements with others “involved in climate policy” are well within the ambit of “climate lobbying.”

- *The First Devon Proposal does not refer to climate change.*

This is correct. However, the Resolved Clause of the First Devon Proposal is identical to the Prior Proposal with one immaterial exception (the proposal to Devon also addressed tax-exempt organizations that write and endorse model legislation, a category presumably removed from the Prior Proposal due to Exxon’s decision to leave ALEC). The First Devon Proposal and the Prior Proposal are otherwise seeking exactly the same report. Neither of them reference climate change in the Resolved clause.

Although the Devon Second Proposal is a bit broader in scope than the Proposal, its sole focus is climate change public policy advocacy. And although the Devon First Proposal makes no reference to climate change, it is otherwise virtually identical to the Prior Proposal – they are both “Traditional Lobbying Proposals” which have been tailored to their respective companies.

More importantly, Staff denied Devon’s request even though the Devon Second Proposal clearly duplicated the Devon First Proposal in several areas:



- Disclosure of direct and indirect lobbying expenditures
- Board oversight
- Both proposals address processes relating to public policy advocacy

Despite this overlap, the key distinction between the two is that the Devon Second Proposal sought an analysis of the substance of Devon's public policy advocacy on climate change, and recommended an analysis of whether those activities aligned with the IPCC's recommendations. That defined the Proposal's principal thrust and clearly distinguished it from the Devon First Proposal, which, like the Prior Proposal, does not seek any such analysis.

The Company chose not to distinguish any of the other prior no-action letters cited in our letter.

Conclusion

For all of the reasons stated above and in our letter of January 29th, the Company's request for no-action relief should be denied and the Company should be instructed to include the Proposal in its Proxy Materials.

The Company has requested an opportunity to confer with Staff, should Staff disagree with its position. We respectfully request that any such communication be conducted in writing, or that we be included in the discussion. If you have any questions or need anything further, I can be reached at (212) 681-3251, or at adam.kanzer@bnpparibas.com.

Respectfully submitted,

Adam Kanzer
Head of Stewardship – Americas

Encl.

cc w/att: Louis L. Goldberg, Davis Polk & Wardwell (via email: louis.goldberg@davispolk.com)
Ning Chiu, Davis Polk & Wardwell (via email: ning.chiu@davispolk.com)
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EXHIBIT A

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February 6, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549
via email: shareholderproposals@sec.gov

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the "**Company**"), we are writing to (a) respond to the letter from BNP Paribas (the "**Proponent**") dated January 29, 2020 (the "**Proponent Response Letter**") with respect to the request from the Company, dated January 14, 2020 (the "**No-Action Letter**"), regarding the exclusion of a shareholder proposal (the "**Proposal**") submitted by the Proponent from the Company's proxy statement for its 2020 Annual Meeting of Shareholders (the "**2020 Proxy Materials**") and (b) supplement the No-Action Letter (we refer to this letter as the "**Company Response Letter**"). Capitalized terms not defined herein are used as defined in the No-Action Letter. A copy of both the No-Action Letter and the Proponent Response Letter (each without the attachments) are included with this letter as Exhibit A. The Company has advised us as to the factual matters set forth below.

The No-Action Letter Inadvertently Attached an Incorrect Proposal as the Prior Proposal, and the Correct Version is Attached to this Company Response Letter

The No-Action Letter attached an incorrect shareholder proposal about lobbying as the Prior Proposal. The Company received a shareholder proposal on September 11, 2019 from Boston Trust Walden, which we refer to henceforth as the "Prior Proposal" for purposes of the No-Action letter and in this Company Response Letter. The Proposal is included as Exhibit B and the Prior Proposal is included as Exhibit C. The mistake was solely limited to the inclusion of the incorrect proposal as the relevant exhibit in the No-Action Letter. The discussion in the No-Action Letter was based on an analysis of the Prior Proposal, and therefore remains unchanged and continues to be the basis for the reasons that the Company believes the Proposal should be excluded under Rule 14a-8(i)(11).

We recognize that the Proponent Response Letter is based on analyzing an incorrect attachment to the Company's original No-Action Letter, and therefore the Proponent may elect to reply again upon receipt of this Company Response Letter. For that reason, in the interest of time, we have undertaken a more detailed review and explanation further comparing the Proposal and the Prior Proposal, as well as specifically addressing some of the points that were raised in the Proponent Response Letter.

The Proposal may be Excluded Under Rule 14a-8(i)(11) Because it Substantially Duplicates Another Proposal That the Company Expects to Include in its Proxy Statement

The Proposal substantially duplicates the Prior Proposal (which, together with the Proposal, the "**Proposals**") because both Proposals seek information and disclosure about climate lobbying, with a focus on the Company's lobbying activities through trade associations that may or may not be in alignment with the Paris Climate Agreement. This duplication is demonstrated by the following chart. For ease of reference, in Exhibits B and C, which includes the Proposals, we have marked the corresponding sections of those Proposals to the numbered references in the chart below.

The Requests	The Proposal	The Prior Proposal
1. Both proposals request that the Company issue a report	Shareholders request that the Board conduct an evaluation and issue a report	Shareholders of ExxonMobil request the preparation of a report
2. Both proposals govern direct and indirect lobbying activities	ExxonMobil's lobbying activities (direct and through trade associations)	Policy and procedures governing lobbying, both direct and indirect Payments by ExxonMobil used for direct or indirect lobbying
3. Both proposals ask for information about the Company's own lobbying activities	Insufficient information is presently available to help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company's name	Exxon Mobil spent \$110,700,000 from 2010-2018 on federal lobbying. This does not include state lobbying expenditures.
4. Both proposals are focused on the Company's trade association affiliations and the lobbying activities of those trade associations	Of particular concern are the trade associations and other politically active organizations that speak for business Exxon's ongoing lobbying efforts through trade associations still present serious concerns	Indirect lobbying is lobbying engaged in by a trade association or other organization of which ExxonMobil is a member ExxonMobil does not disclose its membership in, or payments to, trade associations, or the amounts used for lobbying.
5. Both proposals name specific trade associations that the Company is or was a member of	American legislative Exchange Council (ALEC)	American Petroleum Institute, Business Roundtable, Chamber of Commerce, National Association of Manufacturers

The Requests	The Proposal	The Prior Proposal
<p>6. Both proposals are specifically concerned that the Company's direct or indirect lobbying is not aligned with the Company's support for the Paris Climate Agreement</p>	<p>How ExxonMobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal).</p>	<p>ExxonMobil supports the Paris climate agreement, yet a 2019 Influence Map report found Exxon has spent millions lobbying to undermine it</p> <p>Investors participating in the Climate Action 100+ representing more than \$34 trillion in assets are asking companies to align their lobbying, including through their trade associations, with the goals of the Paris Agreement</p>
<p>7. Both proposals have the same objective of obtaining information in order to evaluate whether the Company's lobbying activities are aligned with the Company's stated policy positions on the Paris Climate Agreement¹</p>	<p>To help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company's name, and indirectly, through trade associations, align with the Paris Agreement's goals</p>	<p>We believe in full disclosure of ExxonMobil's direct and indirect lobbying activities and expenditures to assess whether ExxonMobil's lobbying is consistent with its expressed goals and in shareholder interests</p> <p>Investors participating in Climate Action 100+ are asking companies to align their lobbying, including through their trade associations, with the goals of the Paris Agreement; Peer Shell produced an "Industry Associations Climate Review" report to ensure its trade association participation aligned with its views. ExxonMobil uses the Global Reporting Initiative (GRI) for sustainability reporting, yet fails to report "any differences between its lobbying positions and any stated policies, goals or other public positions" under GRI Standard 415.</p>

¹ The Company's has long publicly supported the Paris Climate Agreement since it was first announced and came into force (<https://corporate.exxonmobil.com/Energy-and-environment/Environmental-protection/Climate-change/Statements-on-Paris-climate-agreement>).

The Requests	The Proposal	The Prior Proposal
8. Both proposals state that any misalignment between lobbying and the Company's support for the Paris Agreement poses risks to the Company	<p>The report should also address the risks presented by any misaligned lobbying</p> <p>Corporate lobbying activities that are inconsistent with meeting the goals of the Paris Agreement present regulatory, reputational and legal risks to investors.</p>	<p>We are concerned that ExxonMobil's lack of disclosure presents reputational risks when its lobbying contradicts company public positions. For example, ExxonMobil supports the Paris climate agreement, yet a 2019 Influence Map report found Exxon has spent millions lobbying to undermine it.</p> <p>We believe the reputational damage stemming from this misalignment between general policies positions and actual direct and indirect lobbying efforts harms long-term value creation by ExxonMobil.²</p>
9. Both proposals ask for board and management oversight.	Thus, we urge the Board and management to assess the company's climate related lobbying and report to shareholders.	<p>Description of management's and the Board's decision-making process and oversight for making the payments described above.</p> <p>The report shall be presented to the Audit Committee or other relevant oversight committees</p>
10. Neither of the Proposals use the words "public policy" ³	Not used	Not used

As noted in detail in the chart above and in the marked exhibits, the Proposals share the same principal thrust and focus, namely the alignment of the Company's lobbying activities with the Company's publicly stated support for the Paris Climate Agreement, especially through the Company's affiliations with trade associations, and the risks posed by any misalignment. We acknowledge there are differences in the scope and language of the Proposals, primarily that the Prior Proposal is broader and asks for more information about the Company's overall lobbying activities, while the Proposal is more narrowly focused on a particular form of lobbying disclosure that is also captured under the scope of the Prior Proposal.

² As the sentence immediately follows the preceding paragraph regarding misalignment on climate lobbying, we believe "this misalignment" refers to misalignment between the Company's climate lobbying and its policy statement on supporting the Paris Climate Agreement.

³ Please see below for a discussion regarding the Staff decision in *Devon Energy Corporation* (March 31, 2014).

The text of the Proposals establishes that the Proposals are duplicative. As demonstrated in the foregoing chart and discussion, the differences in scope and wording do not change the conclusion that the Proposals substantially duplicate one another. This is evident in examining the texts of the Proposals, which include the supporting statements of each of the Proposals, as the resolution and supporting statement must be read together under Rule 14a-8. The Proposal uses the terms "align" and "misalign" with respect to the specific objective of its request for information regarding the Company's climate lobbying, while the Prior Proposal also uses both of those words in recognition of the same objective, and multiple other terms to mean the same thing – "consistent," "contradicts," "lobbying to undermine" and "differences."

The *Devon* No-Action Letter is Not the Appropriate Basis to Analyzed the Substantial Duplication of the Proposals

The Proponent Response Letter cites to the Staff decision in *Devon Energy Corporation* (March 31, 2014) as the basis that the Proposals are not duplicative, where the first proposal received by the company asked for general lobbying disclosure and the second proposal ("**the Devon Second Proposal**") related to that company's public policy positions on climate change, but that proposal is not "strikingly similar" to the Proposal and the analogy is incorrect:

- The Devon Second Proposal is much broader than the Proposal. The title of the Devon Second Proposal was "Review Public Policy Advocacy on Energy Policy and Climate Change." The resolution asked for "a comprehensive review of Devon's positions, oversight and processes, including political and lobbying expenditures, related to public policy advocacy on energy policy and climate change. This would include an analysis of political advocacy and lobbying activities, including indirect support through trade associations, think tanks and other nonprofit organizations." The Devon Second Proposal's request is therefore much broader than the Proposal in including not only climate lobbying, but the company's positions, oversight and processes on all forms of public policy advocacy for both energy policy and climate change. Climate lobbying formed only one part of the proposal rather than its entire focus.
- The supporting statement in the Devon Second Proposal was also broader than a focus on climate lobbying, as it sought information on "board oversight of company's public policy advocacy on climate, engagements with climate scientists and other stakeholders involved in climate policy," and "company political spending and lobbying on energy policy."⁴
- When considering whether a second proposal substantially duplicates the first proposal a company receives, the two proposals must be analyzed together. Another major difference with the Proposals is that the first proposal that was the basis for comparison with the Devon Second Proposal did not refer to climate change.

⁴ The Devon proposal's inclusion of energy policy encompasses a wide range of public policy issues beyond climate change, from safety, health and environmental regulations, to licensing and permitting policies, to policies with respect to transportation infrastructure, to policies involving geopolitics and international relations.

The Proponent Response Letter attempts to recast the Proposal:

- The Proponent Response Letter claims to address “public policy,” which is not referenced in the Proposal. The Proposal’s stated areas of focus are “lobbying activities” and “climate lobbying,” not public policy on climate change. Shareholders are voting on the Proposal, not the depiction of the Proposal in the Proponent Response Letter.
- Contrary to the language in the Proponent Response Letter, the Proposal does not request “a specific analysis of public policy positions relative to the Paris Agreement.” The Proposal does not ask for “a review of policy positions taken, using the Paris Agreement’s goal as a benchmark.” There are no references to the Company’s public policy positions in the Proposal. The Company could be responsive to the Proposal’s request to disclose how its lobbying activities are aligned or misaligned with the Paris Climate Agreement without ever addressing its general public policy positions on climate change.

Numerous Staff Precedents Support Exclusion of the Proposal as Substantially Duplicative of the Prior Proposal

The Proponent Response Letter takes issue with the precedent Staff decisions cited in the No-Action Letter. We believe that the precedents we cited support our request for exclusion. Furthermore, we note that numerous other precedents also support excluding the Proposal.

The Staff has permitted exclusion based on substantial duplication when a company received a first proposal that asked for lobbying disclosure, and the second proposal focused on a specific aspect of that company’s lobbying activities. *Pfizer Inc.* (February 17, 2012), where the second proposal was titled a “Lobbying Priorities Report” and asked companies to identify, evaluate and prioritize public policy issues of interest to the company and the supporting statement addresses lobbying related to a specific subject matter, namely the Affordable Care Act. See also *The Goldman Sachs Group, Inc.* (March 14, 2012) where the second proposal addressed the Dodd-Frank Act; *PepsiCo, Inc.* (March 4, 2014) (the first proposal asked for company policy in making political contributions and having shareholders approve that policy and second proposal was deemed to be substantially duplicative in asking for a policy requiring “consistent incorporation of corporate values” into the company’s political activities; and *The Home Depot, Inc.* (March 22, 2018) (the first proposal asked for general information on lobbying activities and second proposal was deemed to be substantially duplicative in asking for a cost-benefit analysis of the most recent election cycle’s political and electioneering contributions, examining the effectiveness, benefits and associated risks).

The No-Action Letter cites to two no-action letters that the Proponent Response Letter seeks to distinguish as not applicable. We note that in *Duke Energy Corporation* (February 19, 2016), the second proposal had a specific focus that was more narrow than the first proposal, when the second proposal not only asked the board to review the organizations in which the company is a member or which the company otherwise supports that may engage in lobbying, but had a particular focus on the company’s participation in the American Legislative Exchange Council (“ALEC”). That company’s affiliation with ALEC is mentioned upfront and multiple times, and forms a core part of the second proposal, and yet was still determined by the Staff to be substantially duplicative of the first proposal that was more generally focused on lobbying disclosure. The Proposals are also similar to the proposals in the no-action letters from *Bank of America Corp.* (February 24, 2009 and March 14, 2011) cited in the No-Action Letter, in which, as the Proponent Response Letter indicated, the elements of the requested actions differed while the principal thrust of both proposals were the

same. Here, the principal thrust of the Proposals are focused on climate lobbying, with different scope or actions sought, as the Prior Proposal seeks more information along with the focused disclosure about climate lobbying.

Certain Arguments in the Proponent Response Letter are Not Applicable to the Analysis of Whether the Proposals are Substantially Duplicative

We address below certain of the arguments made in the Proponent Response Letter:

- We disagree with the characterization in the Proponent Response Letter that we are suggesting that proposals governing the "same topic" (such as climate change) are always duplicative. As evidenced by the numerous no-action letters recently submitted, the Company has received multiple climate change-related proposals, and we are not arguing they are all duplicative of each other, only when the principal thrust and focus of two proposals are substantially duplicative, based on the text of those two proposals.
- The Proponent Response Letter points to two random examples of lobbying reports⁵ that do not include information about climate lobbying. The Proponent argues that this demonstrates implementation of the Prior Proposal would not be responsive to the request in the Proposal. However, we note that both the Prior Proposal and the Proponent Response Letter cite to Shell's reporting as representing the type of company reporting that implements their requests. The Prior Proposal states that "[p]eer Shell produced an "Industry Associations Climate Review" report to ensure its trade association participation aligned with its views," while footnote 2 of the Proponent Response Letter also uses Shell as an example of a report that achieves its objectives. Therefore, implementation of the Proposals could produce a report with the same information about climate lobbying and be duplicative.

The Proposals are Substantially Duplicative Because They Have the Same Goals and Objectives, and Therefore the Same Principal Thrust and Focus

The Proposals do not merely relate to the "same topic" or the "same general topic" as the Proponent Response Letter alleges. They share the same principal thrust and focus and the same goals⁶:

- Concerns that the Company's lobbying activities should be consistent with, or aligned with, the Company's stated support for the Paris Climate Agreement;
- Concerns that misalignment may occur through the Company's affiliations with trade associations that undertake climate lobbying; and

⁵ See pages 3 to 4 of the Proponent Response Letter in the section "Other Company Reports Highlight the Differences in the Two Proposals" which refers to lobbying disclosures by NextEra Energy and Apache Corporation.

⁶ During the Company's February 2020 engagement with the proponent of the Prior Proposal, that proponent requested information regarding how the Company's lobbying practices are in alignment with the Company's stated values on climate and consistent with the Paris Climate Agreement, including third party organizations that engage on climate change issues, as well as how the Company is addressing issues of "climate related lobbying." This was done orally and also in written form. We have not attached the written form as the proponent refused us permission to provide a copy to the SEC.

- Greater transparency and accountability through disclosures related to corporate lobbying activities on climate activities, especially with respect to the Company's trade association memberships, with board and management oversight of the reports.

For these reasons as well as those stated in the No-Action Letter, we believe that the Company may exclude the Proposal because it is substantially duplicative of the Prior Proposal.

Respectfully yours,

Louis L. Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation

Adam M. Kanzer, BNP Paribas

EXHIBIT B



BNP PARIBAS ASSET MANAGEMENT

January 29, 2020

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

Via email: shareholderproposals@sec.gov

Re: **Shareholder Proposal to Exxon Mobil Corporation seeking a Climate Lobbying Report**

Ladies and Gentlemen:

By letter dated January 14, 2020, counsel for Exxon Mobil Corporation (“Exxon” or “the Company”)(Exhibit A, w/o attachments) asked the Office of the Chief Counsel of the Division of Corporation Finance to confirm that it will not recommend enforcement action if the Company omits a shareholder proposal (the “Proposal”) submitted pursuant to the Commission’s Rule 14a-8 by BNP Paribas Asset Management (“BNPP AM”).

The Company argues that it is entitled to omit the Proposal in reliance on Rule 14a-8(i)(11), which allows omission of a proposal that “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.” For the reasons set forth below, the Company has not met its burden of proof under Rule 14a-8(g). Accordingly, BNPP AM respectfully requests that the Division not grant the relief sought by the Company.

Background

In September 2019, BNPP AM, along with 199 other institutional investors managing a combined \$6.5 trillion, wrote to the Company seeking information about its efforts to ensure that its direct and indirect lobbying activities are aligned with the Paris Agreement on climate change.¹ The Company provided no response to that letter. By contrast, investors have reached agreement with a dozen large European companies to align their lobbying activities with the Paris Agreement, including commitments to publish reports on Paris alignment.² The investors backing these requests view fulfillment of the Paris Agreement’s goal – to limit average global warming to well below two degrees Celsius – to be an imperative, considering the catastrophic consequences for society and for our portfolios if the Paris Agreement’s goals are not met.

¹<https://www.ceres.org/news-center/press-releases/200-investors-call-us-companies-align-climate-lobbying-paris-agreement>
This letter followed a similar letter a year earlier by a large group of European investors managing nearly \$5 trillion.

² To date, investors have reached agreement with Shell, Repsol, Anglo American, ArcelorMittal, BASF, BHP Billiton, BP, Equinor, Glencore, HeidelbergCement, Rio Tinto and RWE.



On December 10, as we had not received a response to our September letter, we chose to submit the Proposal (Exhibit B) to the Company. We were aware that the United Steelworkers had submitted a proposal seeking disclosure of the Company’s policies and procedures guiding its lobbying activities and an itemization of its lobbying expenditures (“The Prior Proposal”, Exhibit C).³ The Proposal, however, makes an entirely different request of the Company. In fact, the only commonality between the two proposals is the general category of corporate lobbying. As discussed below, two proposals that touch on the same broad, overarching topic but maintain a distinct “principal thrust” are not excludable under Rule 14a-8(i)(11).

The Proposal does not Substantially Duplicate the Prior Proposal

A side-by-side comparison of the Resolved clauses of the Proposal with the Prior Proposal clearly demonstrates that the only similarity between the two proposals is the general topic of lobbying:

Prior Proposal (Steelworkers)	The Proposal (BNPP AM)
The shareholders of ExxonMobil request the preparation of a report, updated annually, disclosing:	Shareholders request that the Board of Directors conduct an evaluation and issue a report ... describing
1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.	if, and how, Exxon Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal).
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.	The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.
3. Description of management's and the Board's decision-making process and oversight for making payments described in sections 2 and 3 above.	
The remainder of the Prior Proposal’s Resolved clause is dedicated to definitions of terms and scope. The proposal also requests that the report be presented to the Audit Committee or other relevant oversight committee and be posted on the Company’s website.	

³ We note that the Company has provided no evidence of the date of receipt of the Steelworkers’ proposal. Nonetheless, we were aware it was submitted before ours, and concede that it is, in fact, a ‘prior’ proposal.



The principal thrust of the Prior Proposal is a request for full transparency in Exxon's lobbying expenditures, through disclosure of the policies and procedures that govern the Company's lobbying activities, and an itemized list of expenditures, by recipient.

The Proposal, by contrast, is focused squarely on the content of Exxon's climate lobbying – the actual positions taken. The principal thrust of the Proposal is an analysis of the alignment of Exxon's climate lobbying with the goal of the Paris Agreement to maintain average global temperatures well below two degrees Celsius.

The Prior Proposal seeks full transparency in the Company's lobbying "expenditures", but requests no information at all on the public policy positions the Company is promoting. Nor does it ask the Company to perform any sort of analysis of its lobbying activities.⁴ It is focused exclusively on process and a listing of expenditures.

The Company argues that the Prior Proposal "encompasses the elements" of the Proposal. In fact, as can be seen above, the two Proposals share no common elements except the general topic of lobbying. The Company's entire argument rests on this sole commonality. Staff has consistently communicated, however, that two proposals that address a broad overarching topic, such as lobbying or climate change, are not necessarily duplicative so long as they have a distinct "principal thrust." As discussed below, the Company has misapplied this approach by equating "principal thrust" with "relating to the same general topic."

If the Company were to substantially implement the Prior Proposal, there is no reason for investors to anticipate that the resulting report would contain any reference to climate change or the Paris Agreement, let alone an evaluation of the alignment between the Company's lobbying and the Paris Agreement's goal. We do not see any risk that investors would be confused to see the two proposals alongside each other in the Company's proxy materials as they each make a clearly defined and distinct request of the Company. As discussed below, investors have had an opportunity to vote on a similar pair of proposals before, at Devon Energy. The proposal on climate lobbying received a strong 27% vote.

Other Company Reports Highlight the Differences in the Two Proposals

It may be instructive to look at some of the lobbying reports companies have produced in response to the Prior Proposal, which has been submitted to many companies in substantially similar form for many years. These reports do not generally provide any information on specific public policy positions taken, and do not include the kind of risk analyses requested by the Proposal.

⁴ Although the Prior Proposal notes, in the first whereas clause of the supporting statement, that full disclosure will help "assess whether ExxonMobil's lobbying is consistent with its expressed goals and in the best interests of shareholders," *it does not request any such assessment.* The assumption is that disclosure of the Company's policies, procedures and expenditures will provide the data to permit such an assessment, by shareholders or others. Implicit in this statement is the idea that the requested report would complement, not duplicate, any analysis of the Company's lobbying expenditures. The Prior Proposal does not acknowledge, however, that the data it requests would not permit a full evaluation because it would not include the actual policy positions promoted by the Company's lobbying efforts.



NextEra Energy and Apache Corporation both provide reasonably comprehensive lobbying disclosures, in compliance with the terms of the Prior Proposal. A fairly typical statement can be found in Apache's report:⁵

Political contribution and lobbying expenditure activities support policies and candidates that advance the interests of Apache, its stockholders, and the oil and natural gas industry, irrespective of political party.

NextEra reports that it "engages in the political process because it believes that good government policy benefits its customers, its employees, its shareholders and its other stakeholders. Policy decisions at every level of government can impact the Company's ability to deliver clean, affordable and reliable energy to its customers. Policy decisions can also impact the Company's ability to invest in energy infrastructure that strengthens and diversifies the entire electric grid."⁶

Both companies provide a list of their trade association memberships, but this information is limited to the name of the organization, the amount of the company's dues, and the portion that may be used for lobbying – as requested by the terms of the Prior Proposal.

Some companies do provide additional information on the specific public policy positions they are taking, but this information is not requested by the Prior Proposal.

By contrast, some companies have begun to produce reports that are consistent with the Proposal's request, as part of a broader investor campaign on corporate climate lobbying. Shell published a 45-page "Industry Associations and Climate Review"⁷ that analyzed the positions that 19 of its trade associations have taken on climate change, compared these positions to Shell's positions and to the Paris Agreement, determined the degree of alignment and misalignment, and reported its decision to leave one trade association as a result of this analysis. This is a good example of the type of disclosure sought by the Proposal, which is not available in traditional corporate lobbying reports.

Even a cursory comparison of Shell's report to the lobbying reports produced by NextEra, Apache and others should help to clarify the distinctive nature of the reports requested by the Proposal and the Prior Proposal. These requests are complementary, not duplicative.

Staff Precedent Supports the Inclusion of Both Proposals

In *Devon Energy Corporation* (March 31, 2014), Staff rejected a no-action request that bears a striking similarity to the Company's request. Devon received two proposals - a traditional lobbying disclosure proposal virtually identical to the Prior Proposal, and a proposal quite similar to the Proposal, seeking a

⁵http://www.apachecorp.com/Resources/Upload/file/governance/APACHES_POLICY_ON_POLITICAL_CONTRIBUTIONS_AND_LOBBYING_DISCLOSURES.pdf;

http://www.apachecorp.com/Resources/Upload/file/governance/Apache_Political_Contributions_and_Lobbying_Disclosures_2018.pdf

⁶ <http://www.investor.nexteraenergy.com/corporate-governance/corporate-political-engagement>

⁷https://www.shell.com/sustainability/transparency/public-advocacy-and-political-activity/jcr_content/par/textimage_stream/1554466210642/0a46ab13e36e99f8762ebb021bd72decec2f47b2/final-industry-association-climate-review-april-2019.pdf



review of “public policy advocacy on energy policy and climate change.” (“the Pax Proposal”) The Resolved clause of the Pax Proposal read as follows:

Shareholders request that Independent Board members commission a comprehensive review of Devon's positions, oversight and processes, including political and lobbying expenditures, related to public policy advocacy on energy policy and climate change. This would include an analysis of political advocacy and lobbying activities, including indirect support through trade associations, think tanks and other nonprofit organizations. Shareholders also request the company to prepare (at reasonable cost and omitting confidential information) and make available by September, 2014 a report describing the completed review.

In addition, the Supporting Statement recommended that the review include, *inter alia*, “Whether your current company positions on climate legislation and regulation are consistent with the reductions deemed necessary by the IPCC.” As this proposal was submitted prior to the Paris Agreement, the reference to “reductions deemed necessary by the IPCC” is essentially another way of phrasing the Proposal’s focus on “the goal of limiting average global warming to well below 2 degrees Celsius.”

Staff rejected Devon’s request. Although the Pax Proposal and the BNPP AM Proposal differ from each other in several respects, there is arguably considerably more overlap between the Pax Proposal and the other lobbying proposal received by Devon than between the Proposal and the Prior Proposal. Both proposals received by Devon addressed lobbying “expenditures” and both proposals addressed lobbying “oversight and processes.” The distinct principal thrust of the two proposals, however, was clear – one focused on full lobbying transparency, while the other sought an analysis of Devon’s lobbying on climate change.

The Pax Proposal went on to receive a 27% vote at Devon’s annual meeting, a strong affirmation of Staff’s decision and clear evidence that shareholders were not confused to see the two proposals appear on the same ballot.

Staff has long held that proposals addressing the same broad topic are not necessarily duplicative, so long as they maintain a distinct “principal thrust.” See, e.g., *CVS Caremark Corporation* (March 15, 2013)(Proposal seeking lobbying disclosure does not substantially duplicate a proposal seeking political contributions disclosure, although both relate to corporate expenditures with respect to political activities, and both seek identical categories of information); *Exxon Mobil Corporation* (March 15, 2013) (a request to study the feasibility of adopting a policy prohibiting the use of treasury funds for direct and indirect political contributions did not substantially duplicate a lobbying disclosure proposal); *Bank of America Corp.* (January 7, 2013)(concurring that a proposal seeking to end political spending on elections and referenda does not substantially duplicate a proposal seeking disclosure of spending on elections and referenda); *Pharma-Bio Serv, Inc.* (January 17, 2014)(two proposals relating to the issuance of dividends did not substantially duplicate each other); *ExxonMobil Corp.* (March 17, 2014)(a proposal seeking a report on carbon asset risk did not substantially duplicate a proposal seeking GHG reduction goals, despite the fact that both focus on climate change); *Chevron Corp.* (March 24, 2009)(Proposal relating to the company’s assessment of host country laws and regulations relating to human health, the environment and corporate reputation was not duplicative of a proposal seeking a report on the company’s criteria for investment, continued operation and withdrawal from specific countries).



The Company argues (see below) that the Prior Proposal's breadth encompasses the Proposal, despite the fact that there is no overlap in the elements of the two proposals' resolved clauses. Staff has rejected challenges under 14a-8(i)(11) where the completion of a report would not ensure fulfillment of the requests of a subsequent proposal. *Paypal Holdings, Inc.* (March 13, 2017)(A proposal seeking a report on the feasibility of achieving 'net zero' GHG emissions did not substantially duplicate a prior proposal seeking an annual sustainability report describing the company's short and long-term responses to ESG-related issues); *Exxon Mobil Corp.* (March 13, 2017)(A proposal seeking a report on actions to reduce methane emissions did not substantially duplicate a prior proposal seeking an assessment of the resilience of the company's portfolio of reserves under a global 2 degree target, despite Exxon's argument that an assessment of methane reductions would be included in the preparation of the resilience report).

A review of the lobbying reports produced by NextEra, Apache and others should demonstrate that full implementation of the Prior Proposal is highly unlikely to produce any of the information sought by the Proposal, not because NextEra and Apache did a poor job in reporting – to the contrary – but because they produced qualitatively different kinds of reports than the Proposal is requesting, disclosing completely different categories of information, in keeping with the terms of the Prior Proposal.

Staff No-Action Letters Cited by the Company are Inapposite

The Company cites a number of prior Staff no-action letters in support of two propositions:

- a proposal may be excluded as substantially duplicative of another despite differences in scope and despite the proposals requesting different actions, so long as the principal thrust and focus are substantially the same; and
- a proposal may be excluded where a prior proposal "incorporates or encompasses the elements of a later proposal."

Staff's evaluation concerns matters of degree – "substantial" duplication is a high bar, but two proposals need not be identical to meet the test. Nevertheless, none of the Staff no-action letters cited by the Company support the Company's request to exclude the Proposal.

For example, *Pfizer* (February 28, 2019) considered two virtually identical proposals and the proponent did not dispute that the two were substantially the same. *Rite Aid Corporation* (April 10, 2019) concerned two proposals seeking the right to call a special meeting. We need look no further than Rite Aid's own assertion in its request for no-action relief: "The only substantive difference between the Proposal and the Prior Proposal is the ownership threshold at which shareholders could call a special meeting." In all other respects, the two proposals were the same. The only distinction was that one asked the company to set the right to call a special meeting at 15% of outstanding shares and the other at 10%. Both proposals make the same request; each sets the trigger for the requested action in a different place. There is no comparison to the two proposals at issue here.

Chevron Corporation (March 28, 2019) concerned two proposals relating to the company's efforts to meet the goals of the Paris Agreement on climate change. One asked the company to report on its greenhouse gas reduction targets, while the other asked for a report describing "how" the company



planned to meet the Paris goals. Unlike the two proposals at issue today, both proposals to Chevron focused on the goals of the Paris Agreement, and both proposals sought a report on the company's efforts to meet those goals. The similarity between the two proposals is apparent, and although these two proposals arguably presented a close case, Staff was not persuaded that the differences in framing were sufficient to deny the company's request. In Staff's view, the two proposals shared the same principal thrust. As discussed above, this is not the case with the Proposal and the Prior Proposal, where the only similarity is the general topic of lobbying.

In *Duke Energy Corporation* (February 19, 2016), Staff permitted the exclusion of a broad, undefined request to conduct a "review" of organizations that may engage in lobbying as substantially duplicating a proposal nearly identical to the Prior Proposal. Clearly, a request for an undefined "review" of lobbying organizations sitting alongside a clearly defined request for a lobbying review of the same organizations would be unclear to shareholders and create confusion. The "principal thrust" of both proposals was clearly the same – a review of member organizations that engage in lobbying. This is not the case for the Proposal and the Prior Proposal, which make clearly distinct and well-defined requests.

The Company also cites two no-action letters issued to *Bank of America Corp.* (February 24, 2009 and March 14, 2011). In both cases, the principal thrust of the two proposals was the same, but the elements of the requested action differed. A proposal seeking a commitment to require senior executives to retain a significant percentage of shares acquired through equity compensation programs for two years following the termination of their employment was deemed to substantially duplicate a different request to implement executive compensation reforms that imposed limitations on senior executive compensation (February 24, 2009). The other pair of proposals sought to address improper mortgage foreclosures, with one seeking a review of the company's internal controls related to loan modifications, foreclosures, and securitizations, and the other requesting a report on the company's residential mortgage loss mitigation policies and outcomes and the company's policies and procedures to ensure that the company does not wrongly foreclose on any residential property (March 14, 2011).

All of these no-action letters concerned comparisons between proposals with either identical or very similar requests. The "principal thrust" of each pair of proposals was the same.

By contrast, as discussed above, the Proposal and the Prior Proposal request dramatically different reports and seek to address different issues.

We respond to each element of the Company's analysis, in turn:

- The Company argues that "*the principal thrust of both the Proposal and the Prior Proposal relate to the Company's lobbying expenses.*"

This is a mischaracterization of the Proposal, which makes no reference at all to lobbying "expenses." The *Prior Proposal* seeks disclosure of the Company's lobbying expenses.

The *Prior Proposal* makes no request to disclose any information about policy positions taken and does not request any analysis. The Proposal, by contrast, focuses exclusively on policy positions on climate, seeking an analysis of the degree of alignment between the Company's direct and indirect lobbying on



climate change and the Paris Agreement’s goal, and an analysis of the risk of any misalignments that are uncovered by this review.

The Prior Proposal exclusively seeks disclosure of corporate policies, procedures and expenditures; the Proposal requests a specific analysis of public policy positions relative to the Paris Agreement.

If substantially implemented, the Prior Proposal would not provide any of the information requested by the Proposal and most importantly, would not result in a Board-level review of the Company’s lobbying alignment with the Paris Agreement. The two proposals seek qualitatively different reports with no overlap between them.

Element	Prior Proposal	The Proposal
Lobbying expenditures	Yes	No
Policies and Procedures governing lobbying	Yes	No
Analysis of alignment with Paris goals	No	Yes
Analysis of misalignment risk	No	Yes
Analysis of public policy positions on climate	No	Yes

Further, the Company has misapplied the Staff’s approach to substantial duplication. The “principal thrust” concept is used to distinguish proposals that “relate” to the same general topic (in this case, lobbying), but may have a distinct focus, or core purpose. The Company’s argument has rendered the concept meaningless. The concept of “principal thrust” would be unnecessary if it was sufficient to simply state that two proposals that relate to the same general topic are duplicative, which is precisely what the Company is arguing. In the Company’s view, there is apparently no need to determine a proposal’s “principal thrust” – it is only necessary to group proposals into broad general categories, such as “lobbying” or “climate change.”

The standard that the Staff has applied is very different: two proposals that relate to the same topic but have a unique “principal thrust” are not necessarily duplicative. In the converse, a proposal may be substantially duplicative of another where “the terms and the breadth of the two proposals are somewhat different, [but] the principal thrust and focus are substantially the same.” *Ford Motor Company* (February 19, 2004) Principal thrust, therefore, is at the core of the Staff’s decision-making process and does not mean ‘relates to the same general topic.’

In this case, the terms and breadth of the two proposals are not “somewhat” different, they are entirely different, as the two Resolved clauses share no common elements, and the principal thrust and focus of each, although both touching on the same general category of corporate lobbying, are substantially different.

- The Company argues that the Prior Proposal fully encompasses the Proposal:



- The Prior Proposal is “*broad in scope and focuses on overall lobbying expenditures by the Company, whether direct or indirect or at the grassroots level, and is either entirely duplicative of the Proposal or encompasses the subject matters raised in the Proposal*”;
- “*The Proposal asks for a report on if, and how, the Company’s “lobbying activities...align with the goal of limiting average global warming”, while “The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of climate change, [footnote omitted] and encompasses federal and state lobbying expenditures, as well as lobbying outside the United States.”*

First, the Company’s argument mischaracterizes the Prior Proposal, glossing over the key distinction between the two proposals discussed above – the distinction between the request for corporate policies, procedures and expenditures and the Proposal’s very specific request for a climate lobbying analysis that is not covered by the Prior Proposal.

If the Company was to substantially implement the Prior Proposal, its report need not even include the term “climate change,” let alone provide the analysis sought by the Proposal.

The Company argues that the Prior Proposal’s broad request would “necessarily include” lobbying on climate change. Of course, any request for all lobbying expenditures, by definition, captures all issues the Company and its trade associations work on (climate change, tax, international trade, healthcare, etc.), but it only provides the names of the organizations and the amounts paid to each. Such a report would tell you that X amount was paid to Y organization. The report requested by the Prior Proposal would not provide any information related to *the content* of the lobbying. It would not capture any of the information requested by the Proposal:

- It would not describe positions taken on climate-related public policy, the rationale behind those positions, or the name of the organization associated with each position.
- It would not evaluate the degree of alignment with the Paris Agreement’s goal.
- It would not address the risks of misalignment with the Paris Agreement’s goal.

The Prior Proposal simply requests a list of organizations and a list of expenditures, along with general policies and procedures explaining how the Company’s lobbying activities are governed. In other words, a report produced in response to the Prior Proposal would not “necessarily include” any of the information requested by the Proposal. A report prepared in strict adherence to the guidelines of the Prior Proposal, in fact, would ‘necessarily’ exclude all of this information. See *Exxon Mobil Corp.* (March 13, 2017); *Paypal Holdings, Inc.* (March 13, 2017).

The Company is making the extraordinary argument that publication of the name of a trade association, such as the U.S. Chamber of Commerce or the American Petroleum Institute, along with the dollar amount paid to each, “substantially duplicates” the Proposal’s request for a very specific kind of analysis, merely because the Company and its trade associations lobby on issues related to climate change, among many, many other issues (“The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of



climate change...").⁸ By this logic, an itemized list of political candidates the Company supports would also suffice, as each candidate may take a position on any number of issues.

The Company appears to believe that a report that is limited to policies and procedures and an itemized list of lobbying expenditures immunizes the Company against any future requests relating to public policy advocacy. This is a very broad argument offered without any support in prior Staff decisions. The Company's argument cannot be squared with the Staff's focus on the principal thrust of each proposal in an effort to determine whether the two proposals are "substantially identical" to each other. *Exchange Act Release No. 12999* (November 22, 1976).

The Prior Proposal does not cover "the same subject as the Proposal but with a broader scope", as claimed by the Company. The sole similarity between the two proposals is that both refer to lobbying. Staff has rejected this argument before.

- The Company further argues that "*the Proposal defines lobbying to include "(direct and through trade associations)," and the supporting statement in the Proposal focuses on concerns over trade associations and "other politically active organizations that speak for businesses." The Prior Proposal similarly targets "direct and indirect" lobbying, and the supporting statement in the Prior Proposal also references the Company's participation in trade associations and those associations' lobbying efforts.*

While it is true that both proposals are intended to capture both direct and indirect lobbying, the similarities end there. What the Company fails to acknowledge is that the types of disclosures requested by the two proposals are entirely different, as discussed above. The Proposal requests a review of policy positions taken, using the Paris Agreement's goal as a benchmark, and a risk analysis of any misalignments that are found. None of this information is requested by the Prior Proposal.

- Finally, the Company argues: "*The Proposal asks that the report address any risks posed if the Company's lobbying activities are not 'aligned' with its 'plans,' notably 'align[ment]'* with the Paris Climate Agreement on climate change. The Prior Proposal similarly notes '*reputational risks when its lobbying contradicts company public positions,' specifically with respect to the Paris Climate Agreement.*"

The Company has rearranged the Proposal's Resolved clause in order to establish a parallel between the two proposals. This misreading of the Proposal should be rejected.

The Company has taken the word "plans" out of context. The word "plans" does not refer to the Company's position on climate change or its plans to reduce its GHG emissions, it refers to the company's plans to mitigate the risk of misalignment with the Paris Agreement presented by its lobbying activities. The relevant sentence from the Proposal's Resolved clause reads as follows: "The report should also address the risks presented by any misaligned lobbying and the company's *plans, if any, to mitigate these risks.*" (*emphasis added*). These "plans" are not addressed in the Prior Proposal.

⁸ One can imagine a similar argument that a list of the names of the Company's NEOs substantially duplicates any proposal referencing company strategy or risk, because all strategic decisions are made and executed by these individuals.



The Company is selectively parsing the Proposal's Resolved clause to suggest that it refers to the same reputational risk noted towards the end of the Prior Proposal, notably, the risk of *indirect* lobbying that is misaligned with *the Company's stated positions* on climate change. The Prior Proposal's reference to misalignment on climate change refers to a different risk – misalignment between direct and indirect lobbying, not misalignment between company lobbying, both direct and indirect, and the Paris Agreement's goal. In other words, the risk of internal misalignment is different than the risk of misalignment with an external benchmark.⁹ The risk of misalignment with the Company's own positions may be legal or reputational. The risk of misalignment with the Paris Agreement is legal, reputational, operational and systemic. Lobbying that is misaligned with Paris presents an obstacle to the mitigation of an existential risk. This distinction is critical – it is the core of the Proposal.

Most importantly, while the analysis of misalignment with the Paris Agreement's goal is the principal thrust of the Proposal (in fact, its sole focus), the Prior Proposal's sole reference to climate change amounts to two sentences at the end of its Supporting Statement. These two sentences in the Prior Proposal's Supporting Statement are provided as merely "one example" of the kinds of risks the Company faces, and only one among several reasons provided for shareholders to support the proposal, including:

- The size of Exxon's federal lobbying expenditures;
- Gaps in current disclosure of lobbying expenditures, necessitating the requested report;
- The fact that Exxon lobbies abroad and these foreign expenditures would not be captured in any U.S. federal reporting;
- Concerns regarding Exxon's membership in several large trade associations and their opposition to Rule 14a-8;
- Exxon's lack of disclosure of its memberships or its payments to such organizations; and
- Reputational risks presented by lobbying that may contradict the company's positions, including "for example" allegations that Exxon's trade associations may be undermining the Paris Agreement or "effective climate policy."

The two sentences on climate change are merely illustrative of a kind of reputational risk, provided to persuade investors to support the proposal. They do not alter the very precise elements of the Prior Proposal's Resolved clause, which makes no reference to climate change or misalignment, and does not include any request for an analysis of any sort, or any request for disclosure of public policy positions.

The placement of these two sentences, at the tail-end of the Supporting Statement, following the phrase "for example", clearly demonstrates that these references to climate change are included as an illustrative example to persuade investors to support the proposal and cannot be considered its

⁹ The difference becomes more clear when read in conjunction with the first whereas clause of the Prior Proposal's Supporting Statement, which refers to inconsistency between the Company's "expressed goals", "the best interests of shareholders" and its lobbying activities. By contrast, the Proposal requests an evaluation utilizing a different benchmark – the goal of limiting average global warming to well below 2 degrees Celsius.

Presumably, the Company will argue that there is no difference here, as it is the Company's expressed position that it supports the Paris Agreement. We disagree. The Proposal seeks a report to evaluate whether the Company's public policy advocacy is actually consistent with the Paris Agreement's goal.



principal thrust. The proponents of the Prior Proposal could just as easily have cited policy differences on any number of key issues. By contrast, the Supporting Statement of the Proposal focuses exclusively on alignment with the Paris Agreement. The Prior Proposal's passing reference to climate change cannot support a finding that the principal thrust of the two proposals is "substantially identical."

The Political Contributions Proposal Does Not Substantially Duplicate the Proposal

The Company also notes that it received a third proposal prior to receipt of the Proposal that asks for "similar disclosure" as the Prior Proposal and the Proposal. It is unclear whether the Company is arguing that the Proposal substantially duplicates this proposal as well, as it offers no analysis to support this argument, no evidence that it was received prior to the Proposal,¹⁰ nor any Staff no-action letters in support of this aspect of its argument. The Company carries the burden of proof, but has offered no arguments, except for the phrase "similar disclosure."

The proposal (Exhibit D), requests disclosure of the Company's electoral contributions. Staff has consistently held that these political contributions proposals, which focus exclusively on corporate contributions to electoral campaigns, do not 'substantially duplicate' proposals requesting lobbying expenditures. See, e.g., *CVS Caremark Corporation* (March 15, 2013) (Proposal seeking lobbying disclosure does not substantially duplicate a proposal seeking political contributions disclosure, although both relate to corporate expenditures with respect to political activities, and both seek identical categories of information). The Company appears to implicitly concede this point, as it is not seeking no-action relief to exclude either the Prior Proposal or the political contributions proposal as substantially duplicating each other (it is not clear which proposal was submitted first), and states that it intends to include both in its 2020 Proxy Materials.

The Company's sole assertion with respect to the political contributions proposal is that it asks for "similar disclosure" to both the Steelworkers proposal and the BNPP AM proposal. It does not. In its general form, it is clearly more similar to the Prior Proposal than to the Proposal, but Staff has consistently rejected the argument that political contributions proposals and lobbying proposals substantially duplicate each other.

"Similar" is not the appropriate standard for exclusion under Rule 14a-8(i)(11), and there is, in fact, no similarity between the political contributions proposal and the BNPP AM proposal. That proposal makes no reference to lobbying or to climate change, seeking only the Company's policies and procedures for making electoral contributions and expenditures, and an itemized list of such expenditures. Its inclusion in the Company's proxy materials would not cause any confusion among shareholders. The Company could substantially implement all three of these proposals without duplicating any efforts or disclosures.

¹⁰ We are willing to concede that the Prior Proposal was received before ours, as we were aware of that proposal at the time of our submission. With respect to this third proposal, however, the timing of the submission is a necessary element for determining exclusion under Rule 14a-8(i)(11) and we do not see how the Company can have carried its burden of proof as to this key element without providing any evidence of the date of receipt.



Conclusion

For all of the reasons stated above, the Company's request for no-action relief should be denied and the Company should be instructed to include the Proposal in its Proxy Materials. The Company has requested an opportunity to confer with Staff, should Staff disagree with its position. We respectfully request that any such communication be conducted in writing, or that we be included in the discussion. If you have any questions or need anything further, I can be reached at (212) 681-3251, or at adam.kanzer@bnpparibas.com.

Respectfully submitted,

Adam Kanzer
Head of Stewardship – Americas

Encl.

cc w/att: Louis L. Goldberg, Davis Polk & Wardwell (via email: louis.goldberg@davispolk.com)
Ning Chiu, Davis Polk & Wardwell (via email: ning.chiu@davispolk.com)
James E. Parsons, Exxon Mobil Corporation (via email: james.e.parsons@exxonmobil.com)
Neil A. Hansen, Exxon Mobil Corporation (via email: neil.a.hansen@exxonmobil.com)

EXHIBIT C (The Proposal)

Climate Lobbying Report

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how, ExxonMobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

Supporting Statement

According to the most recent annual "Emissions Gap Report" issued by the United Nations Environment Programme (November 26, 2019), critical gaps remain between the commitments national governments have made and the actions required to prevent the worst effects of climate change. Companies have an important and constructive role to play in enabling policy-makers to close these gaps.

Corporate lobbying activities that are inconsistent with meeting the goals of the Paris Agreement present regulatory, reputational and legal risks to investors. These efforts also present systemic risks to our economies, as delays in implementation of the Paris Agreement increase the physical risks of climate change, pose a systemic risk to economic stability and introduce uncertainty and volatility into our portfolios. We believe that Paris-aligned climate lobbying helps to mitigate these risks, and contributes positively to the long-term value of our investment portfolios.

Of particular concern are the trade associations and other politically active organizations that speak for business but, unfortunately, too often present forceful obstacles to progress in addressing the climate crisis.

As investors, we view fulfillment of the Paris Agreement's agreed goal—to hold the increase in the global average temperature to "well below" 2°C above preindustrial levels, and to pursue efforts to limit the temperature increase to 1.5°C— as an imperative. We are convinced that unabated climate change will have a devastating impact on our clients, plan beneficiaries, and the value of their portfolios. We see future "business as usual" scenarios of 3-4°C or greater as both unacceptable and uninvestable.

Two hundred institutional investors managing \$6.5 trillion recently wrote to ExxonMobil, seeking information on how the company is managing this critical governance issue. Insufficient information is presently available to help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company's name, and indirectly, through trade associations, align with the Paris Agreement's goals, and what ExxonMobil does to address any misalignments it has found. The investors received no response to their letter.

We commend the company for recent positive steps, such as public support for strong methane regulations and the decision to withdraw from membership in the American Legislative Exchange Council (ALEC) because of ALEC's positions on climate change. However, information we do have on ExxonMobil's ongoing lobbying efforts through trade associations still presents serious concerns.

Thus, we urge the Board and management to assess the company's climate related lobbying and report to shareholders.

EXHIBIT D (The Prior Proposal)

Whereas, we believe in full disclosure of ExxonMobil's direct and indirect lobbying activities and expenditures to assess whether ExxonMobil's lobbying is consistent with its expressed goals and in shareholder interests.

Resolved, the shareholders of ExxonMobil request the preparation of a report, updated annually, disclosing:

1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, including in each case the amount of the payment and the recipient.
3. Description of management's and the Board's decision-making process and oversight for making payments described above.

For purposes of this proposal, a "grassroots lobbying communication" is a communication directed to the general public that (a) refers to specific legislation or regulation, (b) reflects a view on the legislation or regulation and (c) encourages the recipient of the communication to take action with respect to the legislation or regulation. "Indirect lobbying" is lobbying engaged in by a trade association or other organization of which ExxonMobil is a member.

Both "direct and indirect lobbying" and "grassroots lobbying communications" include efforts at the local, state and federal levels.

The report shall be presented to the Audit Committee or other relevant oversight committees and posted on ExxonMobil's website.

Supporting Statement

ExxonMobil spent \$110,700,000 from 2010 – 2018 on federal lobbying. This does not include state lobbying expenditures, where ExxonMobil also lobbies but disclosure is uneven or absent. For example, ExxonMobil spent \$4,055,093 on lobbying in California from 2010 – 2018. Exxon also lobbies abroad, spending between €3,250,000 – €3,499,999 on lobbying in Europe for 2018.

ExxonMobil belongs to the American Petroleum Institute, Business Roundtable (BRT), Chamber of Commerce and National Association of Manufacturers (NAM), which altogether spent \$260,638,048 on lobbying for 2017 and 2018. Both the BRT and NAM are lobbying against shareholder rights to file resolutions. ExxonMobil does not disclose its memberships in, or payments to, trade associations, or the amounts used for lobbying.

We are concerned that ExxonMobil's lack of disclosure presents reputational risks when its lobbying contradicts company public positions. For example, ExxonMobil supports the Paris climate agreement, yet a 2019 InfluenceMap report found Exxon has spent millions lobbying to undermine it.¹

Investors participating in the Climate Action 100+ representing more than \$34 trillion in assets are asking companies to align their lobbying, including through their trade associations, with the goals of the Paris agreement. Peer Shell produced an "Industry Associations Climate Review" report to ensure its trade association participation aligned with its views.² ExxonMobil uses the Global Reporting Initiative (GRI) for sustainability reporting, yet fails to report "any differences between its lobbying positions and any stated policies, goals, or other public positions" under GRI Standard 415.

¹ <https://thehill.com/policy/energy-environment/436117-top-oil-firms-spend-millions-on-lobbying-to-block-climate-change>

² <https://www.reuters.com/article/us-shell-afpm-idUSKCN1RE0VB>

We believe the reputational damage stemming from this misalignment between general policy positions and actual direct and indirect lobbying efforts harms long-term value creation by ExxonMobil. Thus, we urge ExxonMobil to expand its lobbying disclosure.

New York
Northern California
Washington DC
London
Paris
Madrid
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February 6, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549
via email: shareholderproposals@sec.gov

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the "**Company**"), we are writing to (a) respond to the letter from BNP Paribas (the "**Proponent**") dated January 29, 2020 (the "**Proponent Response Letter**") with respect to the request from the Company, dated January 14, 2020 (the "**No-Action Letter**"), regarding the exclusion of a shareholder proposal (the "**Proposal**") submitted by the Proponent from the Company's proxy statement for its 2020 Annual Meeting of Shareholders (the "**2020 Proxy Materials**") and (b) supplement the No-Action Letter (we refer to this letter as the "**Company Response Letter**"). Capitalized terms not defined herein are used as defined in the No-Action Letter. A copy of both the No-Action Letter and the Proponent Response Letter (each without the attachments) are included with this letter as Exhibit A. The Company has advised us as to the factual matters set forth below.

The No-Action Letter Inadvertently Attached an Incorrect Proposal as the Prior Proposal, and the Correct Version is Attached to this Company Response Letter

The No-Action Letter attached an incorrect shareholder proposal about lobbying as the Prior Proposal. The Company received a shareholder proposal on September 11, 2019 from Boston Trust Walden, which we refer to henceforth as the "Prior Proposal" for purposes of the No-Action letter and in this Company Response Letter. The Proposal is included as Exhibit B and the Prior Proposal is included as Exhibit C. The mistake was solely limited to the inclusion of the incorrect proposal as the relevant exhibit in the No-Action Letter. The discussion in the No-Action Letter was based on an analysis of the Prior Proposal, and therefore remains unchanged and continues to be the basis for the reasons that the Company believes the Proposal should be excluded under Rule 14a-8(i)(11).

We recognize that the Proponent Response Letter is based on analyzing an incorrect attachment to the Company's original No-Action Letter, and therefore the Proponent may elect to reply again upon receipt of this Company Response Letter. For that reason, in the interest of time, we have undertaken a more detailed review and explanation further comparing the Proposal and the Prior Proposal, as well as specifically addressing some of the points that were raised in the Proponent Response Letter.

The Proposal may be Excluded Under Rule 14a-8(i)(11) Because it Substantially Duplicates Another Proposal That the Company Expects to Include in its Proxy Statement

The Proposal substantially duplicates the Prior Proposal (which, together with the Proposal, the “**Proposals**”) because both Proposals seek information and disclosure about climate lobbying, with a focus on the Company’s lobbying activities through trade associations that may or may not be in alignment with the Paris Climate Agreement. This duplication is demonstrated by the following chart. For ease of reference, in Exhibits B and C, which includes the Proposals, we have marked the corresponding sections of those Proposals to the numbered references in the chart below.

The Requests	The Proposal	The Prior Proposal
1. Both proposals request that the Company issue a report	Shareholders request that the Board conduct an evaluation and issue a report	Shareholders of ExxonMobil request the preparation of a report
2. Both proposals govern direct and indirect lobbying activities	ExxonMobil’s lobbying activities (direct and through trade associations)	Policy and procedures governing lobbying, both direct and indirect Payments by ExxonMobil used for direct or indirect lobbying
3. Both proposals ask for information about the Company’s own lobbying activities	Insufficient information is presently available to help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company’s name	Exxon Mobil spent \$110,700,000 from 2010-2018 on federal lobbying. This does not include state lobbying expenditures.
4. Both proposals are focused on the Company’s trade association affiliations and the lobbying activities of those trade associations	Of particular concern are the trade associations and other politically active organizations that speak for business Exxon’s ongoing lobbying efforts through trade associations still present serious concerns	Indirect lobbying is lobbying engaged in by a trade association or other organization of which ExxonMobil is a member ExxonMobil does not disclose its membership in, or payments to, trade associations, or the amounts used for lobbying.
5. Both proposals name specific trade associations that the Company is or was a member of	American legislative Exchange Council (ALEC)	American Petroleum Institute, Business Roundtable, Chamber of Commerce, National Association of Manufacturers

The Requests	The Proposal	The Prior Proposal
<p>6. Both proposals are specifically concerned that the Company's direct or indirect lobbying is not aligned with the Company's support for the Paris Climate Agreement</p>	<p>How ExxonMobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal).</p>	<p>ExxonMobil supports the Paris climate agreement, yet a 2019 Influence Map report found Exxon has spent millions lobbying to undermine it</p> <p>Investors participating in the Climate Action 100+ representing more than \$34 trillion in assets are asking companies to align their lobbying, including through their trade associations, with the goals of the Paris Agreement</p>
<p>7. Both proposals have the same objective of obtaining information in order to evaluate whether the Company's lobbying activities are aligned with the Company's stated policy positions on the Paris Climate Agreement¹</p>	<p>To help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company's name, and indirectly, through trade associations, align with the Paris Agreement's goals</p>	<p>We believe in full disclosure of ExxonMobil's direct and indirect lobbying activities and expenditures to assess whether ExxonMobil's lobbying is consistent with its expressed goals and in shareholder interests</p> <p>Investors participating in Climate Action 100+ are asking companies to align their lobbying, including through their trade associations, with the goals of the Paris Agreement; Peer Shell produced an "Industry Associations Climate Review" report to ensure its trade association participation aligned with its views. ExxonMobil uses the Global Reporting Initiative (GRI) for sustainability reporting, yet fails to report "any differences between its lobbying positions and any stated policies, goals or other public positions" under GRI Standard 415.</p>

¹ The Company's has long publicly supported the Paris Climate Agreement since it was first announced and came into force (<https://corporate.exxonmobil.com/Energy-and-environment/Environmental-protection/Climate-change/Statements-on-Paris-climate-agreement>).

The Requests	The Proposal	The Prior Proposal
8. Both proposals state that any misalignment between lobbying and the Company's support for the Paris Agreement poses risks to the Company	<p>The report should also address the risks presented by any misaligned lobbying</p> <p>Corporate lobbying activities that are inconsistent with meeting the goals of the Paris Agreement present regulatory, reputational and legal risks to investors.</p>	<p>We are concerned that ExxonMobil's lack of disclosure presents reputational risks when its lobbying contradicts company public positions. For example, ExxonMobil supports the Paris climate agreement, yet a 2019 Influence Map report found Exxon has spent millions lobbying to undermine it.</p> <p>We believe the reputational damage stemming from this misalignment between general policies positions and actual direct and indirect lobbying efforts harms long-term value creation by ExxonMobil.²</p>
9. Both proposals ask for board and management oversight.	Thus, we urge the Board and management to assess the company's climate related lobbying and report to shareholders.	<p>Description of management's and the Board's decision-making process and oversight for making the payments described above.</p> <p>The report shall be presented to the Audit Committee or other relevant oversight committees</p>
10. Neither of the Proposals use the words "public policy" ³	Not used	Not used

As noted in detail in the chart above and in the marked exhibits, the Proposals share the same principal thrust and focus, namely the alignment of the Company's lobbying activities with the Company's publicly stated support for the Paris Climate Agreement, especially through the Company's affiliations with trade associations, and the risks posed by any misalignment. We acknowledge there are differences in the scope and language of the Proposals, primarily that the Prior Proposal is broader and asks for more information about the Company's overall lobbying activities, while the Proposal is more narrowly focused on a particular form of lobbying disclosure that is also captured under the scope of the Prior Proposal.

² As the sentence immediately follows the preceding paragraph regarding misalignment on climate lobbying, we believe "this misalignment" refers to misalignment between the Company's climate lobbying and its policy statement on supporting the Paris Climate Agreement.

³ Please see below for a discussion regarding the Staff decision in *Devon Energy Corporation* (March 31, 2014).

The text of the Proposals establishes that the Proposals are duplicative. As demonstrated in the foregoing chart and discussion, the differences in scope and wording do not change the conclusion that the Proposals substantially duplicate one another. This is evident in examining the texts of the Proposals, which include the supporting statements of each of the Proposals, as the resolution and supporting statement must be read together under Rule 14a-8. The Proposal uses the terms “align” and “misalign” with respect to the specific objective of its request for information regarding the Company’s climate lobbying, while the Prior Proposal also uses both of those words in recognition of the same objective, and multiple other terms to mean the same thing – “consistent,” “contradicts,” “lobbying to undermine” and “differences.”

The *Devon* No-Action Letter is Not the Appropriate Basis to Analyzed the Substantial Duplication of the Proposals

The Proponent Response Letter cites to the Staff decision in *Devon Energy Corporation* (March 31, 2014) as the basis that the Proposals are not duplicative, where the first proposal received by the company asked for general lobbying disclosure and the second proposal (“**the Devon Second Proposal**”) related to that company’s public policy positions on climate change, but that proposal is not “strikingly similar” to the Proposal and the analogy is incorrect:

- The Devon Second Proposal is much broader than the Proposal. The title of the Devon Second Proposal was “Review Public Policy Advocacy on Energy Policy and Climate Change.” The resolution asked for “a comprehensive review of Devon’s positions, oversight and processes, including political and lobbying expenditures, related to public policy advocacy on energy policy and climate change. This would include an analysis of political advocacy and lobbying activities, including indirect support through trade associations, think tanks and other nonprofit organizations.” The Devon Second Proposal’s request is therefore much broader than the Proposal in including not only climate lobbying, but the company’s positions, oversight and processes on all forms of public policy advocacy for both energy policy and climate change. Climate lobbying formed only one part of the proposal rather than its entire focus.
- The supporting statement in the Devon Second Proposal was also broader than a focus on climate lobbying, as it sought information on “board oversight of company’s public policy advocacy on climate, engagements with climate scientists and other stakeholders involved in climate policy,” and “company political spending and lobbying on energy policy.”⁴
- When considering whether a second proposal substantially duplicates the first proposal a company receives, the two proposals must be analyzed together. Another major difference with the Proposals is that the first proposal that was the basis for comparison with the Devon Second Proposal did not refer to climate change.

⁴ The Devon proposal’s inclusion of energy policy encompasses a wide range of public policy issues beyond climate change, from safety, health and environmental regulations, to licensing and permitting policies, to policies with respect to transportation infrastructure, to policies involving geopolitics and international relations.

The Proponent Response Letter attempts to recast the Proposal:

- The Proponent Response Letter claims to address “public policy,” which is not referenced in the Proposal. The Proposal’s stated areas of focus are “lobbying activities” and “climate lobbying,” not public policy on climate change. Shareholders are voting on the Proposal, not the depiction of the Proposal in the Proponent Response Letter.
- Contrary to the language in the Proponent Response Letter, the Proposal does not request “a specific analysis of public policy positions relative to the Paris Agreement.” The Proposal does not ask for “a review of policy positions taken, using the Paris Agreement’s goal as a benchmark.” There are no references to the Company’s public policy positions in the Proposal. The Company could be responsive to the Proposal’s request to disclose how its lobbying activities are aligned or misaligned with the Paris Climate Agreement without ever addressing its general public policy positions on climate change.

Numerous Staff Precedents Support Exclusion of the Proposal as Substantially Duplicative of the Prior Proposal

The Proponent Response Letter takes issue with the precedent Staff decisions cited in the No-Action Letter. We believe that the precedents we cited support our request for exclusion. Furthermore, we note that numerous other precedents also support excluding the Proposal.

The Staff has permitted exclusion based on substantial duplication when a company received a first proposal that asked for lobbying disclosure, and the second proposal focused on a specific aspect of that company’s lobbying activities. *Pfizer Inc.* (February 17, 2012), where the second proposal was titled a “Lobbying Priorities Report” and asked companies to identify, evaluate and prioritize public policy issues of interest to the company and the supporting statement addresses lobbying related to a specific subject matter, namely the Affordable Care Act. See also *The Goldman Sachs Group, Inc.* (March 14, 2012) where the second proposal addressed the Dodd-Frank Act; *PepsiCo, Inc.* (March 4, 2014) (the first proposal asked for company policy in making political contributions and having shareholders approve that policy and second proposal was deemed to be substantially duplicative in asking for a policy requiring “consistent incorporation of corporate values” into the company’s political activities; and *The Home Depot, Inc.* (March 22, 2018) (the first proposal asked for general information on lobbying activities and second proposal was deemed to be substantially duplicative in asking for a cost-benefit analysis of the most recent election cycle’s political and electioneering contributions, examining the effectiveness, benefits and associated risks).

The No-Action Letter cites to two no-action letters that the Proponent Response Letter seeks to distinguish as not applicable. We note that in *Duke Energy Corporation* (February 19, 2016), the second proposal had a specific focus that was more narrow than the first proposal, when the second proposal not only asked the board to review the organizations in which the company is a member or which the company otherwise supports that may engage in lobbying, but had a particular focus on the company’s participation in the American Legislative Exchange Council (“ALEC”). That company’s affiliation with ALEC is mentioned upfront and multiple times, and forms a core part of the second proposal, and yet was still determined by the Staff to be substantially duplicative of the first proposal that was more generally focused on lobbying disclosure. The Proposals are also similar to the proposals in the no-action letters from *Bank of America Corp.* (February 24, 2009 and March 14, 2011) cited in the No-Action Letter, in which, as the Proponent Response Letter indicated, the elements of the requested actions differed while the principal thrust of both proposals were the

same. Here, the principal thrust of the Proposals are focused on climate lobbying, with different scope or actions sought, as the Prior Proposal seeks more information along with the focused disclosure about climate lobbying.

Certain Arguments in the Proponent Response Letter are Not Applicable to the Analysis of Whether the Proposals are Substantially Duplicative

We address below certain of the arguments made in the Proponent Response Letter:

- We disagree with the characterization in the Proponent Response Letter that we are suggesting that proposals governing the “same topic” (such as climate change) are always duplicative. As evidenced by the numerous no-action letters recently submitted, the Company has received multiple climate change-related proposals, and we are not arguing they are all duplicative of each other, only when the principal thrust and focus of two proposals are substantially duplicative, based on the text of those two proposals.
- The Proponent Response Letter points to two random examples of lobbying reports⁵ that do not include information about climate lobbying. The Proponent argues that this demonstrates implementation of the Prior Proposal would not be responsive to the request in the Proposal. However, we note that both the Prior Proposal and the Proponent Response Letter cite to Shell’s reporting as representing the type of company reporting that implements their requests. The Prior Proposal states that “[p]eer Shell produced an “Industry Associations Climate Review” report to ensure its trade association participation aligned with its views,” while footnote 2 of the Proponent Response Letter also uses Shell as an example of a report that achieves its objectives. Therefore, implementation of the Proposals could produce a report with the same information about climate lobbying and be duplicative.

The Proposals are Substantially Duplicative Because They Have the Same Goals and Objectives, and Therefore the Same Principal Thrust and Focus

The Proposals do not merely relate to the “same topic” or the “same general topic” as the Proponent Response Letter alleges. They share the same principal thrust and focus and the same goals⁶:

- Concerns that the Company’s lobbying activities should be consistent with, or aligned with, the Company’s stated support for the Paris Climate Agreement;
- Concerns that misalignment may occur through the Company’s affiliations with trade associations that undertake climate lobbying; and

⁵ See pages 3 to 4 of the Proponent Response Letter in the section “Other Company Reports Highlight the Differences in the Two Proposals” which refers to lobbying disclosures by NextEra Energy and Apache Corporation.

⁶ During the Company’s February 2020 engagement with the proponent of the Prior Proposal, that proponent requested information regarding how the Company’s lobbying practices are in alignment with the Company’s stated values on climate and consistent with the Paris Climate Agreement, including third party organizations that engage on climate change issues, as well as how the Company is addressing issues of “climate related lobbying.” This was done orally and also in written form. We have not attached the written form as the proponent refused us permission to provide a copy to the SEC.

- Greater transparency and accountability through disclosures related to corporate lobbying activities on climate activities, especially with respect to the Company's trade association memberships, with board and management oversight of the reports.

For these reasons as well as those stated in the No-Action Letter, we believe that the Company may exclude the Proposal because it is substantially duplicative of the Prior Proposal.

Respectfully yours,

Louis L. Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation
Adam M. Kanzer, BNP Paribas

Exhibit A

No-Action Letter

New York
Northern California
Washington DC
London
Paris
Madrid
Tokyo
Beijing
Hong Kong

Davis Polk

Louis L. Goldberg

Davis Polk & Wardwell LLP 212 450 4539 tel
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New York, NY 10017 louis.goldberg@davispolk.com

January 14, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549
via email: shareholderproposals@sec.gov

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the “**Company**”), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), we are filing this letter with respect to the shareholder proposal (the “**Proposal**”) submitted by BNP Paribas (the “**Proponent**”) for inclusion in the proxy materials the Company intends to distribute in connection with its 2020 Annual Meeting of Shareholders (the “**2020 Proxy Materials**”). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the “**Staff**”) will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2020 Proxy Materials.

Pursuant to Staff Legal Bulletin No. 14D (CF), Shareholder Proposals (November 7, 2008), Question C, we have submitted this letter and any related correspondence via email to shareholderproposals@sec.gov. Also, in accordance with Rule 14a-8(j), a copy of this submission is being sent simultaneously to the Proponent as notification of the Company’s intention to omit the Proposal from the 2020 Proxy Materials. Pursuant to Rule 14a-8(j), we are submitting this letter not less than 80 days before the Company intends to file its definitive 2020 proxy statement. This letter constitutes the Company’s statement of the reasons it deems the omission of the Proposal to be proper.

THE PROPOSAL

The Proposal states:

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how, Exxon Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's

goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

REASONS FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2020 Proxy Materials pursuant to Rule 14a-8(i)(11), because the Proposal substantially duplicates an earlier proposal submitted to the Company by another proponent that the Company intends to include in its 2020 Proxy Materials.

Rule 14a-8(i)(11) provides that a shareholder proposal may be excluded if it “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.” The Commission has stated that “the purpose of [Rule 14a-8(i)(11)] is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other.” Exchange Act Release No. 12999 (November 22, 1976).

The Staff has previously determined that similar proposals are substantially duplicative where, as in *Ford Motor Company* (February 19, 2004), “the terms and the breadth of the two proposals are somewhat different, [but] the principal thrust and focus are substantially the same.” Thus, a proposal may be excluded as substantially duplicative of another proposal despite differences in scope and despite the proposals requesting different actions. See, e.g., *Chevron Corporation* (March 28, 2019) (permitting exclusion of a proposal requesting annual reporting of the company’s greenhouse gas targets and how they have aligned with the Paris Climate Agreement’s reduction goals, which succeeded a prior proposal requesting disclosure on how the company can reduce its carbon footprint and align with the Paris Climate Agreement’s reduction goals) and *Rite Aid Corporation* (April 10, 2019) (permitting exclusion of a proposal requesting an amendment of the company’s bylaws to enable stockholders at a certain ownership threshold to call a special meeting, which succeeded a prior proposal requesting an amendment of the company’s governing documents to permit stockholders to call a special meeting at a lower ownership threshold).

The Staff has also noted that where one proposal incorporates or encompasses the elements of a later proposal, the subsequent proposal may be excluded. See *Pfizer Inc.* (February 28, 2019) (permitting exclusion of a proposal requesting annual disclosure of the company’s policy governing grassroots lobbying, which succeeded a similar prior proposal accompanied by a different supporting statement); *Duke Energy Corporation* (February 19, 2016) (permitting exclusion of a proposal requesting a review of the company’s lobbying-related activities, which succeeded a similar prior proposal with a different stated purpose for the proposal); *Bank of America Corporation* (March 14, 2011) (permitting exclusion of a proposal requesting a special report to shareholders on the company’s mortgage servicing options, foreclosure mitigation efforts and foreclosure processes, which succeeded a similar prior proposal using different terminology) and *Bank of America Corporation* (February 24, 2009) (permitting exclusion of a proposal requesting a policy that would require the company’s senior executives to retain a significant portion of equity compensation for a certain period of time following termination, which succeeded a similar prior proposal requesting a policy that would require the company’s senior executives to retain a significant portion of equity compensation for a differently measured period of time during employment).

On September 5, 2019, before the December 10, 2019 date upon which the Company received the Proposal, the Company received a proposal from the United Steelworkers (the “**Prior**

Proposal”). See Exhibit B. The Prior Proposal requests “the preparation of a report, updated annually, disclosing:

1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.
3. Description of management’s and the Board’s decision making process and oversight for making payments described above.”

The Company intends to include the Prior Proposal in its 2020 Proxy Materials.

The principal thrust and focus of both the Proposal and the Prior Proposal relate to the Company’s lobbying expenses. The Prior Proposal is broad in scope and focuses on overall lobbying expenditures by the Company, whether direct or indirect or at the grassroots level, and is either entirely duplicative of the Proposal or encompasses the subject matters raised in the Proposal as follows:

- The Proposal asks for a report on if, and how, the Company’s “lobbying activities...align with the goal of limiting average global warming.” The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of climate change,¹ and encompasses federal and state lobbying expenditures, as well as lobbying outside the United States.
- The Proposal defines lobbying to include “(direct and through trade associations),” and the supporting statement in the Proposal focuses on concerns over trade associations and “other politically active organizations that speak for businesses.” The Prior Proposal similarly targets “direct and indirect” lobbying, and the supporting statement in the Prior Proposal also references the Company’s participation in trade associations and those associations’ lobbying efforts.
- The Proposal asks that the report address any risks posed if the Company’s lobbying activities are not “aligned” with its “plans,” notably “align[ment]” with the Paris Climate Agreement on climate change. The Prior Proposal similarly notes “reputational risks when its lobbying contradicts company public positions,” specifically with respect to the Paris Climate Agreement.

The Prior Proposal covers the same subject as the Proposal but with a broader scope, and therefore subsumes and incorporates the Proposal, which addresses a subset of issues (limited to

¹ As noted in the Company’s 2019 Energy and Carbon Summary, the Company supports the Paris Climate Agreement and has long been actively engaged in related lobbying activities, including, for example, being an early and active proponent for a global revenue-neutral carbon tax as being a highly efficient policy tool to help harness market forces toward the goal of reducing global emissions. The Company is also a member of the Oil and Gas Climate Initiative, a voluntary collaboration of leading companies in the industry aimed at reducing climate-related risks. See <https://corporate.exxonmobil.com/Energy-and-environment/Looking-forward/Energy-and-Carbon-Summary>.

the subject of climate change) covered by the Proposal. In addition, the Company had also received another proposal prior to the Proposal, which the Company intends to include in its 2020 Proxy Materials, that asks for similar disclosure as the Prior Proposal and the Proposal with respect to the Company's political activities and contributions. That proposal is included as Exhibit C.

Accordingly, consistent with the Staff's previous interpretations of Rule 14a-8(i)(11), the Company believes that the Proposal may be excluded as substantially duplicative of the Prior Proposal.

CONCLUSION

The Company requests confirmation that the Staff will not recommend any enforcement action if, in reliance on the foregoing, the Company omits the Proposal from its 2020 Proxy Materials. If you should have any questions or need additional information, please contact the undersigned at (212) 450-4539 or louis.goldberg@davispolk.com. If the Staff does not concur with the Company's position, we would appreciate an opportunity to confer with the Staff concerning these matters prior to the issuance of its response.

Respectfully yours,



Louis L. Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation
Adam M. Kanzer, BNP Paribas



BNP PARIBAS ASSET MANAGEMENT

January 29, 2020

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

Via email: shareholderproposals@sec.gov

Re: **Shareholder Proposal to Exxon Mobil Corporation seeking a Climate Lobbying Report**

Ladies and Gentlemen:

By letter dated January 14, 2020, counsel for Exxon Mobil Corporation (“Exxon” or “the Company”)(Exhibit A, w/o attachments) asked the Office of the Chief Counsel of the Division of Corporation Finance to confirm that it will not recommend enforcement action if the Company omits a shareholder proposal (the “Proposal”) submitted pursuant to the Commission’s Rule 14a-8 by BNP Paribas Asset Management (“BNPP AM”).

The Company argues that it is entitled to omit the Proposal in reliance on Rule 14a-8(i)(11), which allows omission of a proposal that “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.” For the reasons set forth below, the Company has not met its burden of proof under Rule 14a-8(g). Accordingly, BNPP AM respectfully requests that the Division not grant the relief sought by the Company.

Background

In September 2019, BNPP AM, along with 199 other institutional investors managing a combined \$6.5 trillion, wrote to the Company seeking information about its efforts to ensure that its direct and indirect lobbying activities are aligned with the Paris Agreement on climate change.¹ The Company provided no response to that letter. By contrast, investors have reached agreement with a dozen large European companies to align their lobbying activities with the Paris Agreement, including commitments to publish reports on Paris alignment.² The investors backing these requests view fulfillment of the Paris Agreement’s goal – to limit average global warming to well below two degrees Celsius – to be an imperative, considering the catastrophic consequences for society and for our portfolios if the Paris Agreement’s goals are not met.

¹<https://www.ceres.org/news-center/press-releases/200-investors-call-us-companies-align-climate-lobbying-paris-agreement>

This letter followed a similar letter a year earlier by a large group of European investors managing nearly \$5 trillion.

² To date, investors have reached agreement with Shell, Repsol, Anglo American, ArcelorMittal, BASF, BHP Billiton, BP, Equinor, Glencore, HeidelbergCement, Rio Tinto and RWE.



On December 10, as we had not received a response to our September letter, we chose to submit the Proposal (Exhibit B) to the Company. We were aware that the United Steelworkers had submitted a proposal seeking disclosure of the Company’s policies and procedures guiding its lobbying activities and an itemization of its lobbying expenditures (“The Prior Proposal”, Exhibit C).³ The Proposal, however, makes an entirely different request of the Company. In fact, the only commonality between the two proposals is the general category of corporate lobbying. As discussed below, two proposals that touch on the same broad, overarching topic but maintain a distinct “principal thrust” are not excludable under Rule 14a-8(i)(11).

The Proposal does not Substantially Duplicate the Prior Proposal

A side-by-side comparison of the Resolved clauses of the Proposal with the Prior Proposal clearly demonstrates that the only similarity between the two proposals is the general topic of lobbying:

Prior Proposal (Steelworkers)	The Proposal (BNPP AM)
The shareholders of ExxonMobil request the preparation of a report, updated annually, disclosing:	Shareholders request that the Board of Directors conduct an evaluation and issue a report ... describing
1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.	if, and how, Exxon Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal).
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.	The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.
3. Description of management's and the Board's decision-making process and oversight for making payments described in sections 2 and 3 above.	
The remainder of the Prior Proposal’s Resolved clause is dedicated to definitions of terms and scope. The proposal also requests that the report be presented to the Audit Committee or other relevant oversight committee and be posted on the Company’s website.	

³ We note that the Company has provided no evidence of the date of receipt of the Steelworkers’ proposal. Nonetheless, we were aware it was submitted before ours, and concede that it is, in fact, a ‘prior’ proposal.



The principal thrust of the Prior Proposal is a request for full transparency in Exxon’s lobbying expenditures, through disclosure of the policies and procedures that govern the Company’s lobbying activities, and an itemized list of expenditures, by recipient.

The Proposal, by contrast, is focused squarely on the content of Exxon’s climate lobbying – the actual positions taken. The principal thrust of the Proposal is an analysis of the alignment of Exxon’s climate lobbying with the goal of the Paris Agreement to maintain average global temperatures well below two degrees Celsius.

The Prior Proposal seeks full transparency in the Company’s lobbying “expenditures”, but requests no information at all on the public policy positions the Company is promoting. Nor does it ask the Company to perform any sort of analysis of its lobbying activities.⁴ It is focused exclusively on process and a listing of expenditures.

The Company argues that the Prior Proposal “encompasses the elements” of the Proposal. In fact, as can be seen above, the two Proposals share no common elements except the general topic of lobbying. The Company’s entire argument rests on this sole commonality. Staff has consistently communicated, however, that two proposals that address a broad overarching topic, such as lobbying or climate change, are not necessarily duplicative so long as they have a distinct “principal thrust.” As discussed below, the Company has misapplied this approach by equating “principal thrust” with “relating to the same general topic.”

If the Company were to substantially implement the Prior Proposal, there is no reason for investors to anticipate that the resulting report would contain any reference to climate change or the Paris Agreement, let alone an evaluation of the alignment between the Company’s lobbying and the Paris Agreement’s goal. We do not see any risk that investors would be confused to see the two proposals alongside each other in the Company’s proxy materials as they each make a clearly defined and distinct request of the Company. As discussed below, investors have had an opportunity to vote on a similar pair of proposals before, at Devon Energy. The proposal on climate lobbying received a strong 27% vote.

Other Company Reports Highlight the Differences in the Two Proposals

It may be instructive to look at some of the lobbying reports companies have produced in response to the Prior Proposal, which has been submitted to many companies in substantially similar form for many years. These reports do not generally provide any information on specific public policy positions taken, and do not include the kind of risk analyses requested by the Proposal.

⁴ Although the Prior Proposal notes, in the first whereas clause of the supporting statement, that full disclosure will help “assess whether ExxonMobil’s lobbying is consistent with its expressed goals and in the best interests of shareholders,” *it does not request any such assessment.* The assumption is that disclosure of the Company’s policies, procedures and expenditures will provide the data to permit such an assessment, by shareholders or others. Implicit in this statement is the idea that the requested report would complement, not duplicate, any analysis of the Company’s lobbying expenditures. The Prior Proposal does not acknowledge, however, that the data it requests would not permit a full evaluation because it would not include the actual policy positions promoted by the Company’s lobbying efforts.



NextEra Energy and Apache Corporation both provide reasonably comprehensive lobbying disclosures, in compliance with the terms of the Prior Proposal. A fairly typical statement can be found in Apache's report:⁵

Political contribution and lobbying expenditure activities support policies and candidates that advance the interests of Apache, its stockholders, and the oil and natural gas industry, irrespective of political party.

NextEra reports that it "engages in the political process because it believes that good government policy benefits its customers, its employees, its shareholders and its other stakeholders. Policy decisions at every level of government can impact the Company's ability to deliver clean, affordable and reliable energy to its customers. Policy decisions can also impact the Company's ability to invest in energy infrastructure that strengthens and diversifies the entire electric grid."⁶

Both companies provide a list of their trade association memberships, but this information is limited to the name of the organization, the amount of the company's dues, and the portion that may be used for lobbying – as requested by the terms of the Prior Proposal.

Some companies do provide additional information on the specific public policy positions they are taking, but this information is not requested by the Prior Proposal.

By contrast, some companies have begun to produce reports that are consistent with the Proposal's request, as part of a broader investor campaign on corporate climate lobbying. Shell published a 45-page "Industry Associations and Climate Review"⁷ that analyzed the positions that 19 of its trade associations have taken on climate change, compared these positions to Shell's positions and to the Paris Agreement, determined the degree of alignment and misalignment, and reported its decision to leave one trade association as a result of this analysis. This is a good example of the type of disclosure sought by the Proposal, which is not available in traditional corporate lobbying reports.

Even a cursory comparison of Shell's report to the lobbying reports produced by NextEra, Apache and others should help to clarify the distinctive nature of the reports requested by the Proposal and the Prior Proposal. These requests are complementary, not duplicative.

Staff Precedent Supports the Inclusion of Both Proposals

In *Devon Energy Corporation* (March 31, 2014), Staff rejected a no-action request that bears a striking similarity to the Company's request. Devon received two proposals - a traditional lobbying disclosure proposal virtually identical to the Prior Proposal, and a proposal quite similar to the Proposal, seeking a

⁵http://www.apachecorp.com/Resources/Upload/file/governance/APACHES_POLICY_ON_POLITICAL_CONTRIBUTIONS_AND_LOBBYING_DISCLOSURES.pdf;

http://www.apachecorp.com/Resources/Upload/file/governance/Political_Contributions_and_Lobbying_Disclosures_2018.pdf

⁶ <http://www.investor.nexteraenergy.com/corporate-governance/corporate-political-engagement>

⁷https://www.shell.com/sustainability/transparency/public-advocacy-and-political-activity/_jcr_content/par/textimage.stream/1554466210642/0a46ab13e36e99f8762ebb021bd72decec2f47b2/final-industry-association-climate-review-april-2019.pdf



review of “public policy advocacy on energy policy and climate change.” (“the Pax Proposal”) The Resolved clause of the Pax Proposal read as follows:

Shareholders request that Independent Board members commission a comprehensive review of Devon's positions, oversight and processes, including political and lobbying expenditures, related to public policy advocacy on energy policy and climate change. This would include an analysis of political advocacy and lobbying activities, including indirect support through trade associations, think tanks and other nonprofit organizations. Shareholders also request the company to prepare (at reasonable cost and omitting confidential information) and make available by September, 2014 a report describing the completed review.

In addition, the Supporting Statement recommended that the review include, *inter alia*, “Whether your current company positions on climate legislation and regulation are consistent with the reductions deemed necessary by the IPCC.” As this proposal was submitted prior to the Paris Agreement, the reference to “reductions deemed necessary by the IPCC” is essentially another way of phrasing the Proposal’s focus on “the goal of limiting average global warming to well below 2 degrees Celsius.”

Staff rejected Devon’s request. Although the Pax Proposal and the BNPP AM Proposal differ from each other in several respects, there is arguably considerably more overlap between the Pax Proposal and the other lobbying proposal received by Devon than between the Proposal and the Prior Proposal. Both proposals received by Devon addressed lobbying “expenditures” and both proposals addressed lobbying “oversight and processes.” The distinct principal thrust of the two proposals, however, was clear – one focused on full lobbying transparency, while the other sought an analysis of Devon’s lobbying on climate change.

The Pax Proposal went on to receive a 27% vote at Devon’s annual meeting, a strong affirmation of Staff’s decision and clear evidence that shareholders were not confused to see the two proposals appear on the same ballot.

Staff has long held that proposals addressing the same broad topic are not necessarily duplicative, so long as they maintain a distinct “principal thrust.” See, e.g., *CVS Caremark Corporation* (March 15, 2013)(Proposal seeking lobbying disclosure does not substantially duplicate a proposal seeking political contributions disclosure, although both relate to corporate expenditures with respect to political activities, and both seek identical categories of information); *Exxon Mobil Corporation* (March 15, 2013) (a request to study the feasibility of adopting a policy prohibiting the use of treasury funds for direct and indirect political contributions did not substantially duplicate a lobbying disclosure proposal); *Bank of America Corp.* (January 7, 2013)(concurring that a proposal seeking to end political spending on elections and referenda does not substantially duplicate a proposal seeking disclosure of spending on elections and referenda); *Pharma-Bio Serv, Inc.* (January 17, 2014)(two proposals relating to the issuance of dividends did not substantially duplicate each other); *ExxonMobil Corp.* (March 17, 2014)(a proposal seeking a report on carbon asset risk did not substantially duplicate a proposal seeking GHG reduction goals, despite the fact that both focus on climate change); *Chevron Corp.* (March 24, 2009)(Proposal relating to the company’s assessment of host country laws and regulations relating to human health, the environment and corporate reputation was not duplicative of a proposal seeking a report on the company’s criteria for investment, continued operation and withdrawal from specific countries).



The Company argues (see below) that the Prior Proposal's breadth encompasses the Proposal, despite the fact that there is no overlap in the elements of the two proposals' resolved clauses. Staff has rejected challenges under 14a-8(i)(11) where the completion of a report would not ensure fulfillment of the requests of a subsequent proposal. *Paypal Holdings, Inc.* (March 13, 2017)(A proposal seeking a report on the feasibility of achieving 'net zero' GHG emissions did not substantially duplicate a prior proposal seeking an annual sustainability report describing the company's short and long-term responses to ESG-related issues); *Exxon Mobil Corp.* (March 13, 2017)(A proposal seeking a report on actions to reduce methane emissions did not substantially duplicate a prior proposal seeking an assessment of the resilience of the company's portfolio of reserves under a global 2 degree target, despite Exxon's argument that an assessment of methane reductions would be included in the preparation of the resilience report).

A review of the lobbying reports produced by NextEra, Apache and others should demonstrate that full implementation of the Prior Proposal is highly unlikely to produce any of the information sought by the Proposal, not because NextEra and Apache did a poor job in reporting – to the contrary – but because they produced qualitatively different kinds of reports than the Proposal is requesting, disclosing completely different categories of information, in keeping with the terms of the Prior Proposal.

Staff No-Action Letters Cited by the Company are Inapposite

The Company cites a number of prior Staff no-action letters in support of two propositions:

- a proposal may be excluded as substantially duplicative of another despite differences in scope and despite the proposals requesting different actions, so long as the principal thrust and focus are substantially the same; and
- a proposal may be excluded where a prior proposal “incorporates or encompasses the elements of a later proposal.”

Staff's evaluation concerns matters of degree – “substantial” duplication is a high bar, but two proposals need not be identical to meet the test. Nevertheless, none of the Staff no-action letters cited by the Company support the Company's request to exclude the Proposal.

For example, *Pfizer* (February 28, 2019) considered two virtually identical proposals and the proponent did not dispute that the two were substantially the same. *Rite Aid Corporation* (April 10, 2019) concerned two proposals seeking the right to call a special meeting. We need look no further than Rite Aid's own assertion in its request for no-action relief: “The only substantive difference between the Proposal and the Prior Proposal is the ownership threshold at which shareholders could call a special meeting.” In all other respects, the two proposals were the same. The only distinction was that one asked the company to set the right to call a special meeting at 15% of outstanding shares and the other at 10%. Both proposals make the same request; each sets the trigger for the requested action in a different place. There is no comparison to the two proposals at issue here.

Chevron Corporation (March 28, 2019) concerned two proposals relating to the company's efforts to meet the goals of the Paris Agreement on climate change. One asked the company to report on its greenhouse gas reduction targets, while the other asked for a report describing “how” the company



planned to meet the Paris goals. Unlike the two proposals at issue today, both proposals to Chevron focused on the goals of the Paris Agreement, and both proposals sought a report on the company's efforts to meet those goals. The similarity between the two proposals is apparent, and although these two proposals arguably presented a close case, Staff was not persuaded that the differences in framing were sufficient to deny the company's request. In Staff's view, the two proposals shared the same principal thrust. As discussed above, this is not the case with the Proposal and the Prior Proposal, where the only similarity is the general topic of lobbying.

In *Duke Energy Corporation* (February 19, 2016), Staff permitted the exclusion of a broad, undefined request to conduct a "review" of organizations that may engage in lobbying as substantially duplicating a proposal nearly identical to the Prior Proposal. Clearly, a request for an undefined "review" of lobbying organizations sitting alongside a clearly defined request for a lobbying review of the same organizations would be unclear to shareholders and create confusion. The "principal thrust" of both proposals was clearly the same – a review of member organizations that engage in lobbying. This is not the case for the Proposal and the Prior Proposal, which make clearly distinct and well-defined requests.

The Company also cites two no-action letters issued to *Bank of America Corp.* (February 24, 2009 and March 14, 2011). In both cases, the principal thrust of the two proposals was the same, but the elements of the requested action differed. A proposal seeking a commitment to require senior executives to retain a significant percentage of shares acquired through equity compensation programs for two years following the termination of their employment was deemed to substantially duplicate a different request to implement executive compensation reforms that imposed limitations on senior executive compensation (February 24, 2009). The other pair of proposals sought to address improper mortgage foreclosures, with one seeking a review of the company's internal controls related to loan modifications, foreclosures, and securitizations, and the other requesting a report on the company's residential mortgage loss mitigation policies and outcomes and the company's policies and procedures to ensure that the company does not wrongly foreclose on any residential property (March 14, 2011).

All of these no-action letters concerned comparisons between proposals with either identical or very similar requests. The "principal thrust" of each pair of proposals was the same.

By contrast, as discussed above, the Proposal and the Prior Proposal request dramatically different reports and seek to address different issues.

We respond to each element of the Company's analysis, in turn:

- The Company argues that "*the principal thrust of both the Proposal and the Prior Proposal relate to the Company's lobbying expenses.*"

This is a mischaracterization of the Proposal, which makes no reference at all to lobbying "expenses." The *Prior Proposal* seeks disclosure of the Company's lobbying expenses.

The *Prior Proposal* makes no request to disclose any information about policy positions taken and does not request any analysis. The Proposal, by contrast, focuses exclusively on policy positions on climate, seeking an analysis of the degree of alignment between the Company's direct and indirect lobbying on



climate change and the Paris Agreement’s goal, and an analysis of the risk of any misalignments that are uncovered by this review.

The Prior Proposal exclusively seeks disclosure of corporate policies, procedures and expenditures; the Proposal requests a specific analysis of public policy positions relative to the Paris Agreement.

If substantially implemented, the Prior Proposal would not provide any of the information requested by the Proposal and most importantly, would not result in a Board-level review of the Company’s lobbying alignment with the Paris Agreement. The two proposals seek qualitatively different reports with no overlap between them.

Element	Prior Proposal	The Proposal
Lobbying expenditures	Yes	No
Policies and Procedures governing lobbying	Yes	No
Analysis of alignment with Paris goals	No	Yes
Analysis of misalignment risk	No	Yes
Analysis of public policy positions on climate	No	Yes

Further, the Company has misapplied the Staff’s approach to substantial duplication. The “principal thrust” concept is used to distinguish proposals that “relate” to the same general topic (in this case, lobbying), but may have a distinct focus, or core purpose. The Company’s argument has rendered the concept meaningless. The concept of “principal thrust” would be unnecessary if it was sufficient to simply state that two proposals that relate to the same general topic are duplicative, which is precisely what the Company is arguing. In the Company’s view, there is apparently no need to determine a proposal’s “principal thrust” – it is only necessary to group proposals into broad general categories, such as “lobbying” or “climate change.”

The standard that the Staff has applied is very different: two proposals that relate to the same topic but have a unique “principal thrust” are not necessarily duplicative. In the converse, a proposal may be substantially duplicative of another where “the terms and the breadth of the two proposals are somewhat different, [but] the principal thrust and focus are substantially the same.” *Ford Motor Company* (February 19, 2004) Principal thrust, therefore, is at the core of the Staff’s decision-making process and does not mean ‘relates to the same general topic.’

In this case, the terms and breadth of the two proposals are not “somewhat” different, they are entirely different, as the two Resolved clauses share no common elements, and the principal thrust and focus of each, although both touching on the same general category of corporate lobbying, are substantially different.

- The Company argues that the Prior Proposal fully encompasses the Proposal:



- The Prior Proposal is “*broad in scope and focuses on overall lobbying expenditures by the Company, whether direct or indirect or at the grassroots level, and is either entirely duplicative of the Proposal or encompasses the subject matters raised in the Proposal*”;
- “*The Proposal asks for a report on if, and how, the Company’s “lobbying activities...align with the goal of limiting average global warming”, while “The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of climate change, [footnote omitted] and encompasses federal and state lobbying expenditures, as well as lobbying outside the United States.*”

First, the Company’s argument mischaracterizes the Prior Proposal, glossing over the key distinction between the two proposals discussed above – the distinction between the request for corporate policies, procedures and expenditures and the Proposal’s very specific request for a climate lobbying analysis that is not covered by the Prior Proposal.

If the Company was to substantially implement the Prior Proposal, its report need not even include the term “climate change,” let alone provide the analysis sought by the Proposal.

The Company argues that the Prior Proposal’s broad request would “necessarily include” lobbying on climate change. Of course, any request for all lobbying expenditures, by definition, captures all issues the Company and its trade associations work on (climate change, tax, international trade, healthcare, etc.), but it only provides the names of the organizations and the amounts paid to each. Such a report would tell you that X amount was paid to Y organization. The report requested by the Prior Proposal would not provide any information related to *the content* of the lobbying. It would not capture any of the information requested by the Proposal:

- It would not describe positions taken on climate-related public policy, the rationale behind those positions, or the name of the organization associated with each position.
- It would not evaluate the degree of alignment with the Paris Agreement’s goal.
- It would not address the risks of misalignment with the Paris Agreement’s goal.

The Prior Proposal simply requests a list of organizations and a list of expenditures, along with general policies and procedures explaining how the Company’s lobbying activities are governed. In other words, a report produced in response to the Prior Proposal would not “necessarily include” any of the information requested by the Proposal. A report prepared in strict adherence to the guidelines of the Prior Proposal, in fact, would ‘necessarily’ exclude all of this information. See *Exxon Mobil Corp.* (March 13, 2017); *Paypal Holdings, Inc.* (March 13, 2017).

The Company is making the extraordinary argument that publication of the name of a trade association, such as the U.S. Chamber of Commerce or the American Petroleum Institute, along with the dollar amount paid to each, “substantially duplicates” the Proposal’s request for a very specific kind of analysis, merely because the Company and its trade associations lobby on issues related to climate change, among many, many other issues (“The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of



climate change....”).⁸ By this logic, an itemized list of political candidates the Company supports would also suffice, as each candidate may take a position on any number of issues.

The Company appears to believe that a report that is limited to policies and procedures and an itemized list of lobbying expenditures immunizes the Company against any future requests relating to public policy advocacy. This is a very broad argument offered without any support in prior Staff decisions. The Company’s argument cannot be squared with the Staff’s focus on the principal thrust of each proposal in an effort to determine whether the two proposals are “substantially identical” to each other. *Exchange Act Release No. 12999* (November 22, 1976).

The Prior Proposal does not cover “the same subject as the Proposal but with a broader scope”, as claimed by the Company. The sole similarity between the two proposals is that both refer to lobbying. Staff has rejected this argument before.

- The Company further argues that *“the Proposal defines lobbying to include “(direct and through trade associations),” and the supporting statement in the Proposal focuses on concerns over trade associations and “other politically active organizations that speak for businesses.” The Prior Proposal similarly targets “direct and indirect” lobbying, and the supporting statement in the Prior Proposal also references the Company’s participation in trade associations and those associations’ lobbying efforts.*

While it is true that both proposals are intended to capture both direct and indirect lobbying, the similarities end there. What the Company fails to acknowledge is that the types of disclosures requested by the two proposals are entirely different, as discussed above. The Proposal requests a review of policy positions taken, using the Paris Agreement’s goal as a benchmark, and a risk analysis of any misalignments that are found. None of this information is requested by the Prior Proposal.

- Finally, the Company argues: *“The Proposal asks that the report address any risks posed if the Company’s lobbying activities are not ‘aligned’ with its ‘plans,’ notably ‘align[ment]’ with the Paris Climate Agreement on climate change. The Prior Proposal similarly notes ‘reputational risks when its lobbying contradicts company public positions,’ specifically with respect to the Paris Climate Agreement.”*

The Company has rearranged the Proposal’s Resolved clause in order to establish a parallel between the two proposals. This misreading of the Proposal should be rejected.

The Company has taken the word “plans” out of context. The word “plans” does not refer to the Company’s position on climate change or its plans to reduce its GHG emissions, it refers to the company’s plans to mitigate the risk of misalignment with the Paris Agreement presented by its lobbying activities. The relevant sentence from the Proposal’s Resolved clause reads as follows: “The report should also address the risks presented by any misaligned lobbying and the company’s *plans, if any, to mitigate these risks.*” (*emphasis added*). These “plans” are not addressed in the Prior Proposal.

⁸ One can imagine a similar argument that a list of the names of the Company’s NEOs substantially duplicates any proposal referencing company strategy or risk, because all strategic decisions are made and executed by these individuals.



The Company is selectively parsing the Proposal’s Resolved clause to suggest that it refers to the same reputational risk noted towards the end of the Prior Proposal, notably, the risk of *indirect* lobbying that is misaligned with *the Company’s stated positions* on climate change. The Prior Proposal’s reference to misalignment on climate change refers to a different risk – misalignment between direct and indirect lobbying, not misalignment between company lobbying, both direct and indirect, and the Paris Agreement’s goal. In other words, the risk of internal misalignment is different than the risk of misalignment with an external benchmark.⁹ The risk of misalignment with the Company’s own positions may be legal or reputational. The risk of misalignment with the Paris Agreement is legal, reputational, operational and systemic. Lobbying that is misaligned with Paris presents an obstacle to the mitigation of an existential risk. This distinction is critical – it is the core of the Proposal.

Most importantly, while the analysis of misalignment with the Paris Agreement’s goal is the principal thrust of the Proposal (in fact, its sole focus), the Prior Proposal’s sole reference to climate change amounts to two sentences at the end of its Supporting Statement. These two sentences in the Prior Proposal’s Supporting Statement are provided as merely “one example” of the kinds of risks the Company faces, and only one among several reasons provided for shareholders to support the proposal, including:

- The size of Exxon’s federal lobbying expenditures;
- Gaps in current disclosure of lobbying expenditures, necessitating the requested report;
- The fact that Exxon lobbies abroad and these foreign expenditures would not be captured in any U.S. federal reporting;
- Concerns regarding Exxon’s membership in several large trade associations and their opposition to Rule 14a-8;
- Exxon’s lack of disclosure of its memberships or its payments to such organizations; and
- Reputational risks presented by lobbying that may contradict the company’s positions, including “for example” allegations that Exxon’s trade associations may be undermining the Paris Agreement or “effective climate policy.”

The two sentences on climate change are merely illustrative of a kind of reputational risk, provided to persuade investors to support the proposal. They do not alter the very precise elements of the Prior Proposal’s Resolved clause, which makes no reference to climate change or misalignment, and does not include any request for an analysis of any sort, or any request for disclosure of public policy positions.

The placement of these two sentences, at the tail-end of the Supporting Statement, following the phrase “for example”, clearly demonstrates that these references to climate change are included as an illustrative example to persuade investors to support the proposal and cannot be considered its

⁹ The difference becomes more clear when read in conjunction with the first whereas clause of the Prior Proposal’s Supporting Statement, which refers to inconsistency between the Company’s “expressed goals”, “the best interests of shareholders” and its lobbying activities. By contrast, the Proposal requests an evaluation utilizing a different benchmark – the goal of limiting average global warming to well below 2 degrees Celsius.

Presumably, the Company will argue that there is no difference here, as it is the Company’s expressed position that it supports the Paris Agreement. We disagree. The Proposal seeks a report to evaluate whether the Company’s public policy advocacy is actually consistent with the Paris Agreement’s goal.



principal thrust. The proponents of the Prior Proposal could just as easily have cited policy differences on any number of key issues. By contrast, the Supporting Statement of the Proposal focuses exclusively on alignment with the Paris Agreement. The Prior Proposal’s passing reference to climate change cannot support a finding that the principal thrust of the two proposals is “substantially identical.”

The Political Contributions Proposal Does Not Substantially Duplicate the Proposal

The Company also notes that it received a third proposal prior to receipt of the Proposal that asks for “similar disclosure” as the Prior Proposal and the Proposal. It is unclear whether the Company is arguing that the Proposal substantially duplicates this proposal as well, as it offers no analysis to support this argument, no evidence that it was received prior to the Proposal,¹⁰ nor any Staff no-action letters in support of this aspect of its argument. The Company carries the burden of proof, but has offered no arguments, except for the phrase “similar disclosure.”

The proposal (Exhibit D), requests disclosure of the Company’s electoral contributions. Staff has consistently held that these political contributions proposals, which focus exclusively on corporate contributions to electoral campaigns, do not ‘substantially duplicate’ proposals requesting lobbying expenditures. See, e.g., *CVS Caremark Corporation* (March 15, 2013)(Proposal seeking lobbying disclosure does not substantially duplicate a proposal seeking political contributions disclosure, although both relate to corporate expenditures with respect to political activities, and both seek identical categories of information). The Company appears to implicitly concede this point, as it is not seeking no-action relief to exclude either the Prior Proposal or the political contributions proposal as substantially duplicating each other (it is not clear which proposal was submitted first), and states that it intends to include both in its 2020 Proxy Materials.

The Company’s sole assertion with respect to the political contributions proposal is that it asks for “similar disclosure” to both the Steelworkers proposal and the BNPP AM proposal. It does not. In its general form, it is clearly more similar to the Prior Proposal than to the Proposal, but Staff has consistently rejected the argument that political contributions proposals and lobbying proposals substantially duplicate each other.

“Similar” is not the appropriate standard for exclusion under Rule 14a-8(i)(11), and there is, in fact, no similarity between the political contributions proposal and the BNPP AM proposal. That proposal makes no reference to lobbying or to climate change, seeking only the Company’s policies and procedures for making electoral contributions and expenditures, and an itemized list of such expenditures. Its inclusion in the Company’s proxy materials would not cause any confusion among shareholders. The Company could substantially implement all three of these proposals without duplicating any efforts or disclosures.

¹⁰ We are willing to concede that the Prior Proposal was received before ours, as we were aware of that proposal at the time of our submission. With respect to this third proposal, however, the timing of the submission is a necessary element for determining exclusion under Rule 14a-8(i)(11) and we do not see how the Company can have carried its burden of proof as to this key element without providing any evidence of the date of receipt.



Conclusion

For all of the reasons stated above, the Company's request for no-action relief should be denied and the Company should be instructed to include the Proposal in its Proxy Materials. The Company has requested an opportunity to confer with Staff, should Staff disagree with its position. We respectfully request that any such communication be conducted in writing, or that we be included in the discussion. If you have any questions or need anything further, I can be reached at (212) 681-3251, or at adam.kanzer@bnpparibas.com.

Respectfully submitted,

Adam Kanzer
Head of Stewardship – Americas

Encl.

cc w/att: Louis L. Goldberg, Davis Polk & Wardwell (via email: louis.goldberg@davispolk.com)
Ning Chiu, Davis Polk & Wardwell (via email: ning.chiu@davispolk.com)
James E. Parsons, Exxon Mobil Corporation (via email: james.e.parsons@exxonmobil.com)
Neil A. Hansen, Exxon Mobil Corporation (via email: neil.a.hansen@exxonmobil.com)

Proposal

Climate Lobbying Report

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how Exxon

Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal).

The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

Supporting Statement

According to the most recent annual "Emissions Gap Report" issued by the United Nations Environment Programme (November 26, 2019), critical gaps remain between the commitments national governments have made and the actions required to prevent the worst effects of climate change. Companies have an important and constructive role to play in enabling policy-makers to close these gaps.

Corporate lobbying activities that are inconsistent with meeting the goals of the Paris Agreement present regulatory, reputational and legal risks to investors. These efforts also present systemic risks to our economies, as delays in implementation of the Paris Agreement increase the physical risks of climate change, pose a systemic risk to economic stability and introduce uncertainty and volatility into our portfolios. We believe that Paris-aligned climate lobbying helps to mitigate these risks, and contributes positively to the long-term value of our investment portfolios.

Of particular concern are the trade associations and other politically active organizations that speak for business but, unfortunately, too often present forceful obstacles to progress in addressing the climate crisis.

As investors, we view fulfillment of the Paris Agreement's agreed goal—to hold the increase in the global average temperature to "well below" 2°C above preindustrial levels, and to pursue efforts to limit the temperature increase to 1.5°C— as an imperative. We are convinced that unabated climate change will have a devastating impact on our clients, plan beneficiaries, and the value of their portfolios. We see future "business as usual" scenarios of 3-4°C or greater as both unacceptable and uninvestable.

Two hundred institutional investors managing \$6.5 trillion recently wrote to ExxonMobil, seeking information on how the company is managing this critical governance issue. Insufficient information is presently available to help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company's name, and indirectly, through trade associations, align with the Paris Agreement's goals, and what ExxonMobil does to address any misalignments it has found. The investors received no response to their letter.

We commend the company for recent positive steps, such as public support for strong methane regulations and the decision to withdraw from membership in the American Legislative Exchange Council (ALEC) because of ALEC's positions on climate change. However, information we do have on ExxonMobil's ongoing lobbying efforts through trade associations still presents serious concerns.

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Thus, we urge the Board and management to assess the company's climate related lobbying and report to shareholders.

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Prior Proposal (UPDATED)

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Whereas, we believe in full disclosure of ExxonMobil's direct and indirect lobbying activities and expenditures to assess whether ExxonMobil's lobbying is consistent with its expressed goals and in shareholder interests.

Resolved, the shareholders of ExxonMobil request the preparation of a report, updated annually, disclosing:

1

1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, including in each case the amount of the payment and the recipient.
3. Description of management's and the Board's decision making process and oversight for making payments described above.

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For purposes of this proposal, a "grassroots lobbying communication" is a communication directed to the general public that (a) refers to specific legislation or regulation, (b) reflects a view on the legislation or regulation and (c) encourages the recipient of the communication to take action with respect to the legislation or regulation. "Indirect lobbying" is lobbying engaged in by a trade association or other organization of which ExxonMobil is a member.

4

Both "direct and indirect lobbying" and "grassroots lobbying communications" include efforts at the local, state and federal levels.

The report shall be presented to the Audit Committee or other relevant oversight committees and posted on ExxonMobil's website.

9

Supporting Statement

ExxonMobil spent \$110,700,000 from 2010 – 2018 on federal lobbying. This does not include state lobbying expenditures, where ExxonMobil also lobbies but disclosure is uneven or absent. For example, ExxonMobil spent \$4,055,093 on lobbying in California from 2010 – 2018. Exxon also lobbies abroad, spending between €3,250,000 – €3,499,999 on lobbying in Europe for 2018.

3

ExxonMobil belongs to the American Petroleum Institute, Business Roundtable (BRT), Chamber of Commerce and National Association of Manufacturers (NAM), which altogether spent \$260,638,048 on lobbying for 2017 and 2018. Both the BRT and NAM are lobbying against shareholder rights to file resolutions. ExxonMobil does not disclose its memberships in, or payments to, trade associations, or the amounts used for lobbying.

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We are concerned that ExxonMobil's lack of disclosure presents reputational risks when its lobbying contradicts company public positions. For example, ExxonMobil supports the Paris climate agreement, yet a 2019 InfluenceMap report found Exxon has spent millions lobbying to undermine it.¹

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Investors participating in the Climate Action 100+ representing more than \$34 trillion in assets are asking companies to align their lobbying, including through their trade associations, with the goals of the Paris agreement.¹ Peer Shell produced an “Industry Associations Climate Review” report to ensure its trade association participation aligned with its views.² ExxonMobil uses the Global Reporting Initiative (GRI) for sustainability reporting, yet fails to report “any differences between its lobbying positions and any stated policies, goals, or other public positions” under GRI Standard 415.

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We believe the reputational damage stemming from this misalignment between general policy positions and actual direct and indirect lobbying efforts harms long-term value creation by ExxonMobil. Thus, we urge ExxonMobil to expand its lobbying disclosure.

1 <https://thehill.com/policy/energy-environment/436117-top-oil-firms-spend-millions-on-lobbying-to-block-climate-change>

2 <https://www.reuters.com/article/us-shell-afpm-idUSKCNIREOVB>



BNP PARIBAS ASSET MANAGEMENT

January 29, 2020

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

Via email: shareholderproposals@sec.gov

Re: **Shareholder Proposal to Exxon Mobil Corporation seeking a Climate Lobbying Report**

Ladies and Gentlemen:

By letter dated January 14, 2020, counsel for Exxon Mobil Corporation (“Exxon” or “the Company”)(Exhibit A, w/o attachments) asked the Office of the Chief Counsel of the Division of Corporation Finance to confirm that it will not recommend enforcement action if the Company omits a shareholder proposal (the “Proposal”) submitted pursuant to the Commission’s Rule 14a-8 by BNP Paribas Asset Management (“BNPP AM”).

The Company argues that it is entitled to omit the Proposal in reliance on Rule 14a-8(i)(11), which allows omission of a proposal that “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.” For the reasons set forth below, the Company has not met its burden of proof under Rule 14a-8(g). Accordingly, BNPP AM respectfully requests that the Division not grant the relief sought by the Company.

Background

In September 2019, BNPP AM, along with 199 other institutional investors managing a combined \$6.5 trillion, wrote to the Company seeking information about its efforts to ensure that its direct and indirect lobbying activities are aligned with the Paris Agreement on climate change.¹ The Company provided no response to that letter. By contrast, investors have reached agreement with a dozen large European companies to align their lobbying activities with the Paris Agreement, including commitments to publish reports on Paris alignment.² The investors backing these requests view fulfillment of the Paris Agreement’s goal – to limit average global warming to well below two degrees Celsius – to be an imperative, considering the catastrophic consequences for society and for our portfolios if the Paris Agreement’s goals are not met.

¹<https://www.ceres.org/news-center/press-releases/200-investors-call-us-companies-align-climate-lobbying-paris-agreement>

This letter followed a similar letter a year earlier by a large group of European investors managing nearly \$5 trillion.

² To date, investors have reached agreement with Shell, Repsol, Anglo American, ArcelorMittal, BASF, BHP Billiton, BP, Equinor, Glencore, HeidelbergCement, Rio Tinto and RWE.



On December 10, as we had not received a response to our September letter, we chose to submit the Proposal (Exhibit B) to the Company. We were aware that the United Steelworkers had submitted a proposal seeking disclosure of the Company’s policies and procedures guiding its lobbying activities and an itemization of its lobbying expenditures (“The Prior Proposal”, Exhibit C).³ The Proposal, however, makes an entirely different request of the Company. In fact, the only commonality between the two proposals is the general category of corporate lobbying. As discussed below, two proposals that touch on the same broad, overarching topic but maintain a distinct “principal thrust” are not excludable under Rule 14a-8(i)(11).

The Proposal does not Substantially Duplicate the Prior Proposal

A side-by-side comparison of the Resolved clauses of the Proposal with the Prior Proposal clearly demonstrates that the only similarity between the two proposals is the general topic of lobbying:

Prior Proposal (Steelworkers)	The Proposal (BNPP AM)
The shareholders of ExxonMobil request the preparation of a report, updated annually, disclosing:	Shareholders request that the Board of Directors conduct an evaluation and issue a report ... describing
1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.	if, and how, Exxon Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal).
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.	The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.
3. Description of management's and the Board's decision-making process and oversight for making payments described in sections 2 and 3 above.	
The remainder of the Prior Proposal’s Resolved clause is dedicated to definitions of terms and scope. The proposal also requests that the report be presented to the Audit Committee or other relevant oversight committee and be posted on the Company’s website.	

³ We note that the Company has provided no evidence of the date of receipt of the Steelworkers’ proposal. Nonetheless, we were aware it was submitted before ours, and concede that it is, in fact, a ‘prior’ proposal.



The principal thrust of the Prior Proposal is a request for full transparency in Exxon’s lobbying expenditures, through disclosure of the policies and procedures that govern the Company’s lobbying activities, and an itemized list of expenditures, by recipient.

The Proposal, by contrast, is focused squarely on the content of Exxon’s climate lobbying – the actual positions taken. The principal thrust of the Proposal is an analysis of the alignment of Exxon’s climate lobbying with the goal of the Paris Agreement to maintain average global temperatures well below two degrees Celsius.

The Prior Proposal seeks full transparency in the Company’s lobbying “expenditures”, but requests no information at all on the public policy positions the Company is promoting. Nor does it ask the Company to perform any sort of analysis of its lobbying activities.⁴ It is focused exclusively on process and a listing of expenditures.

The Company argues that the Prior Proposal “encompasses the elements” of the Proposal. In fact, as can be seen above, the two Proposals share no common elements except the general topic of lobbying. The Company’s entire argument rests on this sole commonality. Staff has consistently communicated, however, that two proposals that address a broad overarching topic, such as lobbying or climate change, are not necessarily duplicative so long as they have a distinct “principal thrust.” As discussed below, the Company has misapplied this approach by equating “principal thrust” with “relating to the same general topic.”

If the Company were to substantially implement the Prior Proposal, there is no reason for investors to anticipate that the resulting report would contain any reference to climate change or the Paris Agreement, let alone an evaluation of the alignment between the Company’s lobbying and the Paris Agreement’s goal. We do not see any risk that investors would be confused to see the two proposals alongside each other in the Company’s proxy materials as they each make a clearly defined and distinct request of the Company. As discussed below, investors have had an opportunity to vote on a similar pair of proposals before, at Devon Energy. The proposal on climate lobbying received a strong 27% vote.

Other Company Reports Highlight the Differences in the Two Proposals

It may be instructive to look at some of the lobbying reports companies have produced in response to the Prior Proposal, which has been submitted to many companies in substantially similar form for many years. These reports do not generally provide any information on specific public policy positions taken, and do not include the kind of risk analyses requested by the Proposal.

⁴ Although the Prior Proposal notes, in the first whereas clause of the supporting statement, that full disclosure will help “assess whether ExxonMobil’s lobbying is consistent with its expressed goals and in the best interests of shareholders,” *it does not request any such assessment.* The assumption is that disclosure of the Company’s policies, procedures and expenditures will provide the data to permit such an assessment, by shareholders or others. Implicit in this statement is the idea that the requested report would complement, not duplicate, any analysis of the Company’s lobbying expenditures. The Prior Proposal does not acknowledge, however, that the data it requests would not permit a full evaluation because it would not include the actual policy positions promoted by the Company’s lobbying efforts.



NextEra Energy and Apache Corporation both provide reasonably comprehensive lobbying disclosures, in compliance with the terms of the Prior Proposal. A fairly typical statement can be found in Apache's report:⁵

Political contribution and lobbying expenditure activities support policies and candidates that advance the interests of Apache, its stockholders, and the oil and natural gas industry, irrespective of political party.

NextEra reports that it "engages in the political process because it believes that good government policy benefits its customers, its employees, its shareholders and its other stakeholders. Policy decisions at every level of government can impact the Company's ability to deliver clean, affordable and reliable energy to its customers. Policy decisions can also impact the Company's ability to invest in energy infrastructure that strengthens and diversifies the entire electric grid."⁶

Both companies provide a list of their trade association memberships, but this information is limited to the name of the organization, the amount of the company's dues, and the portion that may be used for lobbying – as requested by the terms of the Prior Proposal.

Some companies do provide additional information on the specific public policy positions they are taking, but this information is not requested by the Prior Proposal.

By contrast, some companies have begun to produce reports that are consistent with the Proposal's request, as part of a broader investor campaign on corporate climate lobbying. Shell published a 45-page "Industry Associations and Climate Review"⁷ that analyzed the positions that 19 of its trade associations have taken on climate change, compared these positions to Shell's positions and to the Paris Agreement, determined the degree of alignment and misalignment, and reported its decision to leave one trade association as a result of this analysis. This is a good example of the type of disclosure sought by the Proposal, which is not available in traditional corporate lobbying reports.

Even a cursory comparison of Shell's report to the lobbying reports produced by NextEra, Apache and others should help to clarify the distinctive nature of the reports requested by the Proposal and the Prior Proposal. These requests are complementary, not duplicative.

Staff Precedent Supports the Inclusion of Both Proposals

In *Devon Energy Corporation* (March 31, 2014), Staff rejected a no-action request that bears a striking similarity to the Company's request. Devon received two proposals - a traditional lobbying disclosure proposal virtually identical to the Prior Proposal, and a proposal quite similar to the Proposal, seeking a

⁵http://www.apachecorp.com/Resources/Upload/file/governance/APACHES_POLICY_ON_POLITICAL_CONTRIBUTIONS_AND_LOBBYING_DISCLOSURES.pdf;

http://www.apachecorp.com/Resources/Upload/file/governance/Political_Contributions_and_Lobbying_Disclosures_2018.pdf

⁶ <http://www.investor.nexteraenergy.com/corporate-governance/corporate-political-engagement>

⁷https://www.shell.com/sustainability/transparency/public-advocacy-and-political-activity/_jcr_content/par/textimage.stream/1554466210642/0a46ab13e36e99f8762ebb021bd72decec2f47b2/final-industry-association-climate-review-april-2019.pdf



review of “public policy advocacy on energy policy and climate change.” (“the Pax Proposal”) The Resolved clause of the Pax Proposal read as follows:

Shareholders request that Independent Board members commission a comprehensive review of Devon's positions, oversight and processes, including political and lobbying expenditures, related to public policy advocacy on energy policy and climate change. This would include an analysis of political advocacy and lobbying activities, including indirect support through trade associations, think tanks and other nonprofit organizations. Shareholders also request the company to prepare (at reasonable cost and omitting confidential information) and make available by September, 2014 a report describing the completed review.

In addition, the Supporting Statement recommended that the review include, *inter alia*, “Whether your current company positions on climate legislation and regulation are consistent with the reductions deemed necessary by the IPCC.” As this proposal was submitted prior to the Paris Agreement, the reference to “reductions deemed necessary by the IPCC” is essentially another way of phrasing the Proposal’s focus on “the goal of limiting average global warming to well below 2 degrees Celsius.”

Staff rejected Devon’s request. Although the Pax Proposal and the BNPP AM Proposal differ from each other in several respects, there is arguably considerably more overlap between the Pax Proposal and the other lobbying proposal received by Devon than between the Proposal and the Prior Proposal. Both proposals received by Devon addressed lobbying “expenditures” and both proposals addressed lobbying “oversight and processes.” The distinct principal thrust of the two proposals, however, was clear – one focused on full lobbying transparency, while the other sought an analysis of Devon’s lobbying on climate change.

The Pax Proposal went on to receive a 27% vote at Devon’s annual meeting, a strong affirmation of Staff’s decision and clear evidence that shareholders were not confused to see the two proposals appear on the same ballot.

Staff has long held that proposals addressing the same broad topic are not necessarily duplicative, so long as they maintain a distinct “principal thrust.” See, e.g., *CVS Caremark Corporation* (March 15, 2013)(Proposal seeking lobbying disclosure does not substantially duplicate a proposal seeking political contributions disclosure, although both relate to corporate expenditures with respect to political activities, and both seek identical categories of information); *Exxon Mobil Corporation* (March 15, 2013) (a request to study the feasibility of adopting a policy prohibiting the use of treasury funds for direct and indirect political contributions did not substantially duplicate a lobbying disclosure proposal); *Bank of America Corp.* (January 7, 2013)(concurring that a proposal seeking to end political spending on elections and referenda does not substantially duplicate a proposal seeking disclosure of spending on elections and referenda); *Pharma-Bio Serv, Inc.* (January 17, 2014)(two proposals relating to the issuance of dividends did not substantially duplicate each other); *ExxonMobil Corp.* (March 17, 2014)(a proposal seeking a report on carbon asset risk did not substantially duplicate a proposal seeking GHG reduction goals, despite the fact that both focus on climate change); *Chevron Corp.* (March 24, 2009)(Proposal relating to the company’s assessment of host country laws and regulations relating to human health, the environment and corporate reputation was not duplicative of a proposal seeking a report on the company’s criteria for investment, continued operation and withdrawal from specific countries).



The Company argues (see below) that the Prior Proposal's breadth encompasses the Proposal, despite the fact that there is no overlap in the elements of the two proposals' resolved clauses. Staff has rejected challenges under 14a-8(i)(11) where the completion of a report would not ensure fulfillment of the requests of a subsequent proposal. *Paypal Holdings, Inc.* (March 13, 2017)(A proposal seeking a report on the feasibility of achieving 'net zero' GHG emissions did not substantially duplicate a prior proposal seeking an annual sustainability report describing the company's short and long-term responses to ESG-related issues); *Exxon Mobil Corp.* (March 13, 2017)(A proposal seeking a report on actions to reduce methane emissions did not substantially duplicate a prior proposal seeking an assessment of the resilience of the company's portfolio of reserves under a global 2 degree target, despite Exxon's argument that an assessment of methane reductions would be included in the preparation of the resilience report).

A review of the lobbying reports produced by NextEra, Apache and others should demonstrate that full implementation of the Prior Proposal is highly unlikely to produce any of the information sought by the Proposal, not because NextEra and Apache did a poor job in reporting – to the contrary – but because they produced qualitatively different kinds of reports than the Proposal is requesting, disclosing completely different categories of information, in keeping with the terms of the Prior Proposal.

Staff No-Action Letters Cited by the Company are Inapposite

The Company cites a number of prior Staff no-action letters in support of two propositions:

- a proposal may be excluded as substantially duplicative of another despite differences in scope and despite the proposals requesting different actions, so long as the principal thrust and focus are substantially the same; and
- a proposal may be excluded where a prior proposal “incorporates or encompasses the elements of a later proposal.”

Staff's evaluation concerns matters of degree – “substantial” duplication is a high bar, but two proposals need not be identical to meet the test. Nevertheless, none of the Staff no-action letters cited by the Company support the Company's request to exclude the Proposal.

For example, *Pfizer* (February 28, 2019) considered two virtually identical proposals and the proponent did not dispute that the two were substantially the same. *Rite Aid Corporation* (April 10, 2019) concerned two proposals seeking the right to call a special meeting. We need look no further than Rite Aid's own assertion in its request for no-action relief: “The only substantive difference between the Proposal and the Prior Proposal is the ownership threshold at which shareholders could call a special meeting.” In all other respects, the two proposals were the same. The only distinction was that one asked the company to set the right to call a special meeting at 15% of outstanding shares and the other at 10%. Both proposals make the same request; each sets the trigger for the requested action in a different place. There is no comparison to the two proposals at issue here.

Chevron Corporation (March 28, 2019) concerned two proposals relating to the company's efforts to meet the goals of the Paris Agreement on climate change. One asked the company to report on its greenhouse gas reduction targets, while the other asked for a report describing “how” the company



planned to meet the Paris goals. Unlike the two proposals at issue today, both proposals to Chevron focused on the goals of the Paris Agreement, and both proposals sought a report on the company's efforts to meet those goals. The similarity between the two proposals is apparent, and although these two proposals arguably presented a close case, Staff was not persuaded that the differences in framing were sufficient to deny the company's request. In Staff's view, the two proposals shared the same principal thrust. As discussed above, this is not the case with the Proposal and the Prior Proposal, where the only similarity is the general topic of lobbying.

In *Duke Energy Corporation* (February 19, 2016), Staff permitted the exclusion of a broad, undefined request to conduct a "review" of organizations that may engage in lobbying as substantially duplicating a proposal nearly identical to the Prior Proposal. Clearly, a request for an undefined "review" of lobbying organizations sitting alongside a clearly defined request for a lobbying review of the same organizations would be unclear to shareholders and create confusion. The "principal thrust" of both proposals was clearly the same – a review of member organizations that engage in lobbying. This is not the case for the Proposal and the Prior Proposal, which make clearly distinct and well-defined requests.

The Company also cites two no-action letters issued to *Bank of America Corp.* (February 24, 2009 and March 14, 2011). In both cases, the principal thrust of the two proposals was the same, but the elements of the requested action differed. A proposal seeking a commitment to require senior executives to retain a significant percentage of shares acquired through equity compensation programs for two years following the termination of their employment was deemed to substantially duplicate a different request to implement executive compensation reforms that imposed limitations on senior executive compensation (February 24, 2009). The other pair of proposals sought to address improper mortgage foreclosures, with one seeking a review of the company's internal controls related to loan modifications, foreclosures, and securitizations, and the other requesting a report on the company's residential mortgage loss mitigation policies and outcomes and the company's policies and procedures to ensure that the company does not wrongly foreclose on any residential property (March 14, 2011).

All of these no-action letters concerned comparisons between proposals with either identical or very similar requests. The "principal thrust" of each pair of proposals was the same.

By contrast, as discussed above, the Proposal and the Prior Proposal request dramatically different reports and seek to address different issues.

We respond to each element of the Company's analysis, in turn:

- The Company argues that "*the principal thrust of both the Proposal and the Prior Proposal relate to the Company's lobbying expenses.*"

This is a mischaracterization of the Proposal, which makes no reference at all to lobbying "expenses." The *Prior Proposal* seeks disclosure of the Company's lobbying expenses.

The *Prior Proposal* makes no request to disclose any information about policy positions taken and does not request any analysis. The Proposal, by contrast, focuses exclusively on policy positions on climate, seeking an analysis of the degree of alignment between the Company's direct and indirect lobbying on



climate change and the Paris Agreement’s goal, and an analysis of the risk of any misalignments that are uncovered by this review.

The Prior Proposal exclusively seeks disclosure of corporate policies, procedures and expenditures; the Proposal requests a specific analysis of public policy positions relative to the Paris Agreement.

If substantially implemented, the Prior Proposal would not provide any of the information requested by the Proposal and most importantly, would not result in a Board-level review of the Company’s lobbying alignment with the Paris Agreement. The two proposals seek qualitatively different reports with no overlap between them.

Element	Prior Proposal	The Proposal
Lobbying expenditures	Yes	No
Policies and Procedures governing lobbying	Yes	No
Analysis of alignment with Paris goals	No	Yes
Analysis of misalignment risk	No	Yes
Analysis of public policy positions on climate	No	Yes

Further, the Company has misapplied the Staff’s approach to substantial duplication. The “principal thrust” concept is used to distinguish proposals that “relate” to the same general topic (in this case, lobbying), but may have a distinct focus, or core purpose. The Company’s argument has rendered the concept meaningless. The concept of “principal thrust” would be unnecessary if it was sufficient to simply state that two proposals that relate to the same general topic are duplicative, which is precisely what the Company is arguing. In the Company’s view, there is apparently no need to determine a proposal’s “principal thrust” – it is only necessary to group proposals into broad general categories, such as “lobbying” or “climate change.”

The standard that the Staff has applied is very different: two proposals that relate to the same topic but have a unique “principal thrust” are not necessarily duplicative. In the converse, a proposal may be substantially duplicative of another where “the terms and the breadth of the two proposals are somewhat different, [but] the principal thrust and focus are substantially the same.” *Ford Motor Company* (February 19, 2004) Principal thrust, therefore, is at the core of the Staff’s decision-making process and does not mean ‘relates to the same general topic.’

In this case, the terms and breadth of the two proposals are not “somewhat” different, they are entirely different, as the two Resolved clauses share no common elements, and the principal thrust and focus of each, although both touching on the same general category of corporate lobbying, are substantially different.

- The Company argues that the Prior Proposal fully encompasses the Proposal:



- The Prior Proposal is “*broad in scope and focuses on overall lobbying expenditures by the Company, whether direct or indirect or at the grassroots level, and is either entirely duplicative of the Proposal or encompasses the subject matters raised in the Proposal*”;
- “*The Proposal asks for a report on if, and how, the Company’s “lobbying activities...align with the goal of limiting average global warming”, while “The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of climate change, [footnote omitted] and encompasses federal and state lobbying expenditures, as well as lobbying outside the United States.*”

First, the Company’s argument mischaracterizes the Prior Proposal, glossing over the key distinction between the two proposals discussed above – the distinction between the request for corporate policies, procedures and expenditures and the Proposal’s very specific request for a climate lobbying analysis that is not covered by the Prior Proposal.

If the Company was to substantially implement the Prior Proposal, its report need not even include the term “climate change,” let alone provide the analysis sought by the Proposal.

The Company argues that the Prior Proposal’s broad request would “necessarily include” lobbying on climate change. Of course, any request for all lobbying expenditures, by definition, captures all issues the Company and its trade associations work on (climate change, tax, international trade, healthcare, etc.), but it only provides the names of the organizations and the amounts paid to each. Such a report would tell you that X amount was paid to Y organization. The report requested by the Prior Proposal would not provide any information related to *the content* of the lobbying. It would not capture any of the information requested by the Proposal:

- It would not describe positions taken on climate-related public policy, the rationale behind those positions, or the name of the organization associated with each position.
- It would not evaluate the degree of alignment with the Paris Agreement’s goal.
- It would not address the risks of misalignment with the Paris Agreement’s goal.

The Prior Proposal simply requests a list of organizations and a list of expenditures, along with general policies and procedures explaining how the Company’s lobbying activities are governed. In other words, a report produced in response to the Prior Proposal would not “necessarily include” any of the information requested by the Proposal. A report prepared in strict adherence to the guidelines of the Prior Proposal, in fact, would ‘necessarily’ exclude all of this information. See *Exxon Mobil Corp.* (March 13, 2017); *Paypal Holdings, Inc.* (March 13, 2017).

The Company is making the extraordinary argument that publication of the name of a trade association, such as the U.S. Chamber of Commerce or the American Petroleum Institute, along with the dollar amount paid to each, “substantially duplicates” the Proposal’s request for a very specific kind of analysis, merely because the Company and its trade associations lobby on issues related to climate change, among many, many other issues (“The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of



climate change....”).⁸ By this logic, an itemized list of political candidates the Company supports would also suffice, as each candidate may take a position on any number of issues.

The Company appears to believe that a report that is limited to policies and procedures and an itemized list of lobbying expenditures immunizes the Company against any future requests relating to public policy advocacy. This is a very broad argument offered without any support in prior Staff decisions. The Company’s argument cannot be squared with the Staff’s focus on the principal thrust of each proposal in an effort to determine whether the two proposals are “substantially identical” to each other. *Exchange Act Release No. 12999* (November 22, 1976).

The Prior Proposal does not cover “the same subject as the Proposal but with a broader scope”, as claimed by the Company. The sole similarity between the two proposals is that both refer to lobbying. Staff has rejected this argument before.

- The Company further argues that *“the Proposal defines lobbying to include “(direct and through trade associations),” and the supporting statement in the Proposal focuses on concerns over trade associations and “other politically active organizations that speak for businesses.” The Prior Proposal similarly targets “direct and indirect” lobbying, and the supporting statement in the Prior Proposal also references the Company’s participation in trade associations and those associations’ lobbying efforts.*

While it is true that both proposals are intended to capture both direct and indirect lobbying, the similarities end there. What the Company fails to acknowledge is that the types of disclosures requested by the two proposals are entirely different, as discussed above. The Proposal requests a review of policy positions taken, using the Paris Agreement’s goal as a benchmark, and a risk analysis of any misalignments that are found. None of this information is requested by the Prior Proposal.

- Finally, the Company argues: *“The Proposal asks that the report address any risks posed if the Company’s lobbying activities are not ‘aligned’ with its ‘plans,’ notably ‘align[ment]’ with the Paris Climate Agreement on climate change. The Prior Proposal similarly notes ‘reputational risks when its lobbying contradicts company public positions,’ specifically with respect to the Paris Climate Agreement.”*

The Company has rearranged the Proposal’s Resolved clause in order to establish a parallel between the two proposals. This misreading of the Proposal should be rejected.

The Company has taken the word “plans” out of context. The word “plans” does not refer to the Company’s position on climate change or its plans to reduce its GHG emissions, it refers to the company’s plans to mitigate the risk of misalignment with the Paris Agreement presented by its lobbying activities. The relevant sentence from the Proposal’s Resolved clause reads as follows: “The report should also address the risks presented by any misaligned lobbying and the company’s *plans, if any, to mitigate these risks.*” (*emphasis added*). These “plans” are not addressed in the Prior Proposal.

⁸ One can imagine a similar argument that a list of the names of the Company’s NEOs substantially duplicates any proposal referencing company strategy or risk, because all strategic decisions are made and executed by these individuals.



The Company is selectively parsing the Proposal’s Resolved clause to suggest that it refers to the same reputational risk noted towards the end of the Prior Proposal, notably, the risk of *indirect* lobbying that is misaligned with *the Company’s stated positions* on climate change. The Prior Proposal’s reference to misalignment on climate change refers to a different risk – misalignment between direct and indirect lobbying, not misalignment between company lobbying, both direct and indirect, and the Paris Agreement’s goal. In other words, the risk of internal misalignment is different than the risk of misalignment with an external benchmark.⁹ The risk of misalignment with the Company’s own positions may be legal or reputational. The risk of misalignment with the Paris Agreement is legal, reputational, operational and systemic. Lobbying that is misaligned with Paris presents an obstacle to the mitigation of an existential risk. This distinction is critical – it is the core of the Proposal.

Most importantly, while the analysis of misalignment with the Paris Agreement’s goal is the principal thrust of the Proposal (in fact, its sole focus), the Prior Proposal’s sole reference to climate change amounts to two sentences at the end of its Supporting Statement. These two sentences in the Prior Proposal’s Supporting Statement are provided as merely “one example” of the kinds of risks the Company faces, and only one among several reasons provided for shareholders to support the proposal, including:

- The size of Exxon’s federal lobbying expenditures;
- Gaps in current disclosure of lobbying expenditures, necessitating the requested report;
- The fact that Exxon lobbies abroad and these foreign expenditures would not be captured in any U.S. federal reporting;
- Concerns regarding Exxon’s membership in several large trade associations and their opposition to Rule 14a-8;
- Exxon’s lack of disclosure of its memberships or its payments to such organizations; and
- Reputational risks presented by lobbying that may contradict the company’s positions, including “for example” allegations that Exxon’s trade associations may be undermining the Paris Agreement or “effective climate policy.”

The two sentences on climate change are merely illustrative of a kind of reputational risk, provided to persuade investors to support the proposal. They do not alter the very precise elements of the Prior Proposal’s Resolved clause, which makes no reference to climate change or misalignment, and does not include any request for an analysis of any sort, or any request for disclosure of public policy positions.

The placement of these two sentences, at the tail-end of the Supporting Statement, following the phrase “for example”, clearly demonstrates that these references to climate change are included as an illustrative example to persuade investors to support the proposal and cannot be considered its

⁹ The difference becomes more clear when read in conjunction with the first whereas clause of the Prior Proposal’s Supporting Statement, which refers to inconsistency between the Company’s “expressed goals”, “the best interests of shareholders” and its lobbying activities. By contrast, the Proposal requests an evaluation utilizing a different benchmark – the goal of limiting average global warming to well below 2 degrees Celsius.

Presumably, the Company will argue that there is no difference here, as it is the Company’s expressed position that it supports the Paris Agreement. We disagree. The Proposal seeks a report to evaluate whether the Company’s public policy advocacy is actually consistent with the Paris Agreement’s goal.



principal thrust. The proponents of the Prior Proposal could just as easily have cited policy differences on any number of key issues. By contrast, the Supporting Statement of the Proposal focuses exclusively on alignment with the Paris Agreement. The Prior Proposal's passing reference to climate change cannot support a finding that the principal thrust of the two proposals is "substantially identical."

The Political Contributions Proposal Does Not Substantially Duplicate the Proposal

The Company also notes that it received a third proposal prior to receipt of the Proposal that asks for "similar disclosure" as the Prior Proposal and the Proposal. It is unclear whether the Company is arguing that the Proposal substantially duplicates this proposal as well, as it offers no analysis to support this argument, no evidence that it was received prior to the Proposal,¹⁰ nor any Staff no-action letters in support of this aspect of its argument. The Company carries the burden of proof, but has offered no arguments, except for the phrase "similar disclosure."

The proposal (Exhibit D), requests disclosure of the Company's electoral contributions. Staff has consistently held that these political contributions proposals, which focus exclusively on corporate contributions to electoral campaigns, do not 'substantially duplicate' proposals requesting lobbying expenditures. See, e.g., *CVS Caremark Corporation* (March 15, 2013) (Proposal seeking lobbying disclosure does not substantially duplicate a proposal seeking political contributions disclosure, although both relate to corporate expenditures with respect to political activities, and both seek identical categories of information). The Company appears to implicitly concede this point, as it is not seeking no-action relief to exclude either the Prior Proposal or the political contributions proposal as substantially duplicating each other (it is not clear which proposal was submitted first), and states that it intends to include both in its 2020 Proxy Materials.

The Company's sole assertion with respect to the political contributions proposal is that it asks for "similar disclosure" to both the Steelworkers proposal and the BNPP AM proposal. It does not. In its general form, it is clearly more similar to the Prior Proposal than to the Proposal, but Staff has consistently rejected the argument that political contributions proposals and lobbying proposals substantially duplicate each other.

"Similar" is not the appropriate standard for exclusion under Rule 14a-8(i)(11), and there is, in fact, no similarity between the political contributions proposal and the BNPP AM proposal. That proposal makes no reference to lobbying or to climate change, seeking only the Company's policies and procedures for making electoral contributions and expenditures, and an itemized list of such expenditures. Its inclusion in the Company's proxy materials would not cause any confusion among shareholders. The Company could substantially implement all three of these proposals without duplicating any efforts or disclosures.

¹⁰ We are willing to concede that the Prior Proposal was received before ours, as we were aware of that proposal at the time of our submission. With respect to this third proposal, however, the timing of the submission is a necessary element for determining exclusion under Rule 14a-8(i)(11) and we do not see how the Company can have carried its burden of proof as to this key element without providing any evidence of the date of receipt.



Conclusion

For all of the reasons stated above, the Company's request for no-action relief should be denied and the Company should be instructed to include the Proposal in its Proxy Materials. The Company has requested an opportunity to confer with Staff, should Staff disagree with its position. We respectfully request that any such communication be conducted in writing, or that we be included in the discussion. If you have any questions or need anything further, I can be reached at (212) 681-3251, or at adam.kanzer@bnpparibas.com.

Respectfully submitted,

Adam Kanzer
Head of Stewardship – Americas

Encl.

cc w/att: Louis L. Goldberg, Davis Polk & Wardwell (via email: louis.goldberg@davispolk.com)
Ning Chiu, Davis Polk & Wardwell (via email: ning.chiu@davispolk.com)
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EXHIBIT A

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January 14, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549
via email: shareholderproposals@sec.gov

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the "**Company**"), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), we are filing this letter with respect to the shareholder proposal (the "**Proposal**") submitted by BNP Paribas (the "**Proponent**") for inclusion in the proxy materials the Company intends to distribute in connection with its 2020 Annual Meeting of Shareholders (the "**2020 Proxy Materials**"). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the "**Staff**") will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2020 Proxy Materials.

Pursuant to Staff Legal Bulletin No. 14D (CF), Shareholder Proposals (November 7, 2008), Question C, we have submitted this letter and any related correspondence via email to shareholderproposals@sec.gov. Also, in accordance with Rule 14a-8(j), a copy of this submission is being sent simultaneously to the Proponent as notification of the Company's intention to omit the Proposal from the 2020 Proxy Materials. Pursuant to Rule 14a-8(j), we are submitting this letter not less than 80 days before the Company intends to file its definitive 2020 proxy statement. This letter constitutes the Company's statement of the reasons it deems the omission of the Proposal to be proper.

THE PROPOSAL

The Proposal states:

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how, Exxon Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's

goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

REASONS FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2020 Proxy Materials pursuant to Rule 14a-8(i)(11), because the Proposal substantially duplicates an earlier proposal submitted to the Company by another proponent that the Company intends to include in its 2020 Proxy Materials.

Rule 14a-8(i)(11) provides that a shareholder proposal may be excluded if it "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." The Commission has stated that "the purpose of [Rule 14a-8(i)(11)] is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other." Exchange Act Release No. 12999 (November 22, 1976).

The Staff has previously determined that similar proposals are substantially duplicative where, as in *Ford Motor Company* (February 19, 2004), "the terms and the breadth of the two proposals are somewhat different, [but] the principal thrust and focus are substantially the same." Thus, a proposal may be excluded as substantially duplicative of another proposal despite differences in scope and despite the proposals requesting different actions. See, e.g., *Chevron Corporation* (March 28, 2019) (permitting exclusion of a proposal requesting annual reporting of the company's greenhouse gas targets and how they have aligned with the Paris Climate Agreement's reduction goals, which succeeded a prior proposal requesting disclosure on how the company can reduce its carbon footprint and align with the Paris Climate Agreement's reduction goals) and *Rite Aid Corporation* (April 10, 2019) (permitting exclusion of a proposal requesting an amendment of the company's bylaws to enable stockholders at a certain ownership threshold to call a special meeting, which succeeded a prior proposal requesting an amendment of the company's governing documents to permit stockholders to call a special meeting at a lower ownership threshold).

The Staff has also noted that where one proposal incorporates or encompasses the elements of a later proposal, the subsequent proposal may be excluded. See *Pfizer Inc.* (February 28, 2019) (permitting exclusion of a proposal requesting annual disclosure of the company's policy governing grassroots lobbying, which succeeded a similar prior proposal accompanied by a different supporting statement); *Duke Energy Corporation* (February 19, 2016) (permitting exclusion of a proposal requesting a review of the company's lobbying-related activities, which succeeded a similar prior proposal with a different stated purpose for the proposal); *Bank of America Corporation* (March 14, 2011) (permitting exclusion of a proposal requesting a special report to shareholders on the company's mortgage servicing options, foreclosure mitigation efforts and foreclosure processes, which succeeded a similar prior proposal using different terminology) and *Bank of America Corporation* (February 24, 2009) (permitting exclusion of a proposal requesting a policy that would require the company's senior executives to retain a significant portion of equity compensation for a certain period of time following termination, which succeeded a similar prior proposal requesting a policy that would require the company's senior executives to retain a significant portion of equity compensation for a differently measured period of time during employment).

On September 5, 2019, before the December 10, 2019 date upon which the Company received the Proposal, the Company received a proposal from the United Steelworkers (the "Prior

Proposal"). See Exhibit B. The Prior Proposal requests "the preparation of a report, updated annually, disclosing:

1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.
3. Description of management's and the Board's decision making process and oversight for making payments described above."

The Company intends to include the Prior Proposal in its 2020 Proxy Materials.

The principal thrust and focus of both the Proposal and the Prior Proposal relate to the Company's lobbying expenses. The Prior Proposal is broad in scope and focuses on overall lobbying expenditures by the Company, whether direct or indirect or at the grassroots level, and is either entirely duplicative of the Proposal or encompasses the subject matters raised in the Proposal as follows:

- The Proposal asks for a report on if, and how, the Company's "lobbying activities... align with the goal of limiting average global warming." The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of climate change,¹ and encompasses federal and state lobbying expenditures, as well as lobbying outside the United States.
- The Proposal defines lobbying to include "(direct and through trade associations)," and the supporting statement in the Proposal focuses on concerns over trade associations and "other politically active organizations that speak for businesses." The Prior Proposal similarly targets "direct and indirect" lobbying, and the supporting statement in the Prior Proposal also references the Company's participation in trade associations and those associations' lobbying efforts.
- The Proposal asks that the report address any risks posed if the Company's lobbying activities are not "aligned" with its "plans," notably "align[ment]" with the Paris Climate Agreement on climate change. The Prior Proposal similarly notes "reputational risks when its lobbying contradicts company public positions," specifically with respect to the Paris Climate Agreement.

The Prior Proposal covers the same subject as the Proposal but with a broader scope, and therefore subsumes and incorporates the Proposal, which addresses a subset of issues (limited to

¹ As noted in the Company's 2019 Energy and Carbon Summary, the Company supports the Paris Climate Agreement and has long been actively engaged in related lobbying activities, including, for example, being an early and active proponent for a global revenue-neutral carbon tax as being a highly efficient policy tool to help harness market forces toward the goal of reducing global emissions. The Company is also a member of the Oil and Gas Climate Initiative, a voluntary collaboration of leading companies in the industry aimed at reducing climate-related risks. See <https://corporate.exxonmobil.com/Energy-and-environment/Looking-forward/Energy-and-Carbon-Summary>.

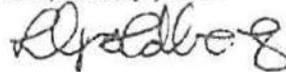
the subject of climate change) covered by the Proposal. In addition, the Company had also received another proposal prior to the Proposal, which the Company intends to include in its 2020 Proxy Materials, that asks for similar disclosure as the Prior Proposal and the Proposal with respect to the Company's political activities and contributions. That proposal is included as Exhibit C.

Accordingly, consistent with the Staff's previous interpretations of Rule 14a-8(i)(11), the Company believes that the Proposal may be excluded as substantially duplicative of the Prior Proposal.

CONCLUSION

The Company requests confirmation that the Staff will not recommend any enforcement action if, in reliance on the foregoing, the Company omits the Proposal from its 2020 Proxy Materials. If you should have any questions or need additional information, please contact the undersigned at (212) 450-4539 or louis.goldberg@davispolk.com. If the Staff does not concur with the Company's position, we would appreciate an opportunity to confer with the Staff concerning these matters prior to the issuance of its response.

Respectfully yours,



Louis L. Goldberg

Attachment

cc w/ att James E. Parsons, Exxon Mobil Corporation
Adam M. Kanzer, BNP Paribas

EXHIBIT B

Climate Lobbying Report

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how, ExxonMobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

Supporting Statement

According to the most recent annual "Emissions Gap Report" issued by the United Nations Environment Programme (November 26, 2019), critical gaps remain between the commitments national governments have made and the actions required to prevent the worst effects of climate change. Companies have an important and constructive role to play in enabling policy-makers to close these gaps.

Corporate lobbying activities that are inconsistent with meeting the goals of the Paris Agreement present regulatory, reputational and legal risks to investors. These efforts also present systemic risks to our economies, as delays in implementation of the Paris Agreement increase the physical risks of climate change, pose a systemic risk to economic stability and introduce uncertainty and volatility into our portfolios. We believe that Paris-aligned climate lobbying helps to mitigate these risks, and contributes positively to the long-term value of our investment portfolios.

Of particular concern are the trade associations and other politically active organizations that speak for business but, unfortunately, too often present forceful obstacles to progress in addressing the climate crisis.

As investors, we view fulfillment of the Paris Agreement's agreed goal—to hold the increase in the global average temperature to "well below" 2°C above preindustrial levels, and to pursue efforts to limit the temperature increase to 1.5°C— as an imperative. We are convinced that unabated climate change will have a devastating impact on our clients, plan beneficiaries, and the value of their portfolios. We see future "business as usual" scenarios of 3-4°C or greater as both unacceptable and uninvestable.

Two hundred institutional investors managing \$6.5 trillion recently wrote to ExxonMobil, seeking information on how the company is managing this critical governance issue. Insufficient information is presently available to help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company's name, and indirectly, through trade associations, align with the Paris Agreement's goals, and what ExxonMobil does to address any misalignments it has found. The investors received no response to their letter.

We commend the company for recent positive steps, such as public support for strong methane regulations and the decision to withdraw from membership in the American Legislative Exchange Council (ALEC) because of ALEC's positions on climate change. However, information we do have on ExxonMobil's ongoing lobbying efforts through trade associations still presents serious concerns.

Thus, we urge the Board and management to assess the company's climate related lobbying and report to shareholders.

EXHIBIT C

Prior Proposal

Whereas, we believe in full disclosure of ExxonMobil's direct and indirect lobbying activities and expenditures to assess whether ExxonMobil's lobbying is consistent with its expressed goals and in the best interests of shareholders.

Resolved, the shareholders of ExxonMobil request the preparation of a report, updated annually, disclosing:

1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.
3. Description of management's and the Board's decision making process and oversight for making payments described in sections 2 and 3 above.

For purposes of this proposal, a 'grassroots lobbying communication' is a communication directed to the general public that (a) refers to specific legislation or regulation, (b) reflects a view on the legislation or regulation and (c) encourages the recipient of the communication to take action with respect to the legislation or regulation. 'Indirect lobbying' is lobbying engaged in by a trade association or other organization of which ExxonMobil is a member.

Both 'direct and indirect lobbying' and 'grassroots lobbying communications' include efforts at the local, state and federal levels.

The report shall be presented to the Audit Committee or other relevant oversight committees and posted on ExxonMobil's website.

Supporting Statement

We encourage transparency in ExxonMobil's use of funds to lobby. ExxonMobil spent \$99.43 million from 2010–2017 on federal lobbying. These figures do not include state lobbying expenditures, where ExxonMobil also lobbies but disclosure is uneven or absent. For example, ExxonMobil spent \$3,860,715 on lobbying in California from 2010–2017. Exxon also lobbies abroad, reportedly spending between €3.75m and €4m on lobbying in Brussels for 2017 ("Revealed: ExxonMobil's Private Dinner with Cyprus' Top EU Brass," *EU Observer*, August 12, 2018).

We commend ExxonMobil for ending its membership in the American Legislative Exchange Council ("Exxon Mobil Joins Exodus of Firms from Lobbying Group ALEC," *Reuters*, July 12, 2018). However, serious disclosure concerns remain. ExxonMobil belongs to the American Petroleum Institute, Business Roundtable (BRT), Chamber of Commerce and National Association of Manufacturers (NAM), which altogether spent \$260,410,014 on lobbying for 2016 and 2017. Both the BRT and NAM are lobbying against shareholder rights to file resolutions. ExxonMobil does not disclose its memberships in, or payments to, trade associations, or the amounts used for lobbying.

- We are concerned that ExxonMobil's lack of lobbying disclosure presents reputational risks when its lobbying contradicts company public positions. For example, ExxonMobil supports the Paris climate agreement, yet was named one of the top three global corporations lobbying against effective climate policy. ("When Corporations Take Credit for Green Deeds Their Lobbying May Tell Another Story," *The Conversation*, July 17, 2018), and the Chamber undermined the Paris climate accord ("Paris Pullout Pits Chamber against Some of Its Biggest Members," *Bloomberg*, June 9, 2017). As shareholders, we believe that companies should ensure there is alignment between their own positions and their lobbying, including through trade associations.

EXHIBIT D

Exxon Mobil Corp. Political Disclosure Shareholder Resolution

Resolved, that the shareholders of Exxon Mobil Corp. ("Exxon" or "Company") hereby request that the Company prepare and semiannually update a report, which shall be presented to the pertinent board of directors committee and posted on the Company's website, disclosing the Company's:

(a) Policies and procedures for making electoral contributions and expenditures (direct and indirect) with corporate funds, including the board's role (if any) in that process; and

(b) Monetary and non-monetary contributions or expenditures that could not be deducted as an "ordinary and necessary" business expense under section 162(e)(1)(B) of the Internal Revenue Code, including (but not limited to) contributions or expenditures on behalf of candidates, parties, and committees and entities organized and operating under section 501(c)(4) of the Internal Revenue Code, as well as the portion of any dues or payments made to any tax-exempt organization (such as a trade association) used for an expenditure or contribution that, if made directly by the Company, would not be deductible under section 162(e)(1)(B) of the Internal Revenue Code.

The report shall be made available within 12 months of the annual meeting and identify all recipients and the amount paid to each recipient from Company funds. This proposal does not encompass lobbying spending.

Supporting Statement

As long-term Exxon shareholders, we support transparency and accountability in corporate electoral spending. Disclosure is in the best interest of the Company and its shareholders. The Supreme Court recognized this in its 2010 Citizens United decision, which said, "[D]isclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

Publicly available records show Exxon has contributed at least \$12,900,000 in corporate funds since the 2010 election cycle. (CQMoneyLine: <http://moneyline.cq.c.com>; National Institute on Money in State Politics: <http://www.followthemoney.org>).

We acknowledge that Exxon publicly discloses a policy on corporate political spending and its direct contributions to candidates, parties, and committees. We believe this is deficient because Exxon does not disclose the following:

- A full list of trade associations to which it belongs and the no-deductible portion under section 162(e)(1)(B) of the dues paid to each; and
- Payments to other third-party organizations, including those organizations under section 501(c)(4) of the Internal Revenue Code, that could be used for election-related purposes.

Information on indirect electoral spending through trade associations and 501(c)(4) groups cannot be obtained by shareholders unless the Company discloses it. This proposal asks the Company to disclose all of its electoral spending, both direct and indirect. This would bring our company in line with a growing number of leading companies, including AT&T, United Technologies, and ConocoPhillips, which present this information on their websites. The Company's Board and

- shareholders need comprehensive disclosure to be able to fully evaluate the use of corporate assets in elections. We urge your support for this critical governance reform.

New York
Northern California
Washington DC
London
Paris
Madrid
Tokyo
Beijing
Hong Kong



Louis L. Goldberg

Davis Polk & Wardwell LLP 212 450 4539 tel
450 Lexington Avenue 212 701 5539 fax
New York, NY 10017 louis.goldberg@davispolk.com

January 14, 2020

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549
via email: shareholderproposals@sec.gov

Ladies and Gentlemen:

On behalf of Exxon Mobil Corporation, a New Jersey corporation (the "**Company**"), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), we are filing this letter with respect to the shareholder proposal (the "**Proposal**") submitted by BNP Paribas (the "**Proponent**") for inclusion in the proxy materials the Company intends to distribute in connection with its 2020 Annual Meeting of Shareholders (the "**2020 Proxy Materials**"). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the "**Staff**") will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2020 Proxy Materials.

Pursuant to Staff Legal Bulletin No. 14D (CF), Shareholder Proposals (November 7, 2008), Question C, we have submitted this letter and any related correspondence via email to shareholderproposals@sec.gov. Also, in accordance with Rule 14a-8(j), a copy of this submission is being sent simultaneously to the Proponent as notification of the Company's intention to omit the Proposal from the 2020 Proxy Materials. Pursuant to Rule 14a-8(j), we are submitting this letter not less than 80 days before the Company intends to file its definitive 2020 proxy statement. This letter constitutes the Company's statement of the reasons it deems the omission of the Proposal to be proper.

THE PROPOSAL

The Proposal states:

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how, Exxon Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's

#103837237

goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

REASONS FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2020 Proxy Materials pursuant to Rule 14a-8(i)(11), because the Proposal substantially duplicates an earlier proposal submitted to the Company by another proponent that the Company intends to include in its 2020 Proxy Materials.

Rule 14a-8(i)(11) provides that a shareholder proposal may be excluded if it "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." The Commission has stated that "the purpose of [Rule 14a-8(i)(11)] is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other." Exchange Act Release No. 12999 (November 22, 1976).

The Staff has previously determined that similar proposals are substantially duplicative where, as in *Ford Motor Company* (February 19, 2004), "the terms and the breadth of the two proposals are somewhat different, [but] the principal thrust and focus are substantially the same." Thus, a proposal may be excluded as substantially duplicative of another proposal despite differences in scope and despite the proposals requesting different actions. See, e.g., *Chevron Corporation* (March 28, 2019) (permitting exclusion of a proposal requesting annual reporting of the company's greenhouse gas targets and how they have aligned with the Paris Climate Agreement's reduction goals, which succeeded a prior proposal requesting disclosure on how the company can reduce its carbon footprint and align with the Paris Climate Agreement's reduction goals) and *Rite Aid Corporation* (April 10, 2019) (permitting exclusion of a proposal requesting an amendment of the company's bylaws to enable stockholders at a certain ownership threshold to call a special meeting, which succeeded a prior proposal requesting an amendment of the company's governing documents to permit stockholders to call a special meeting at a lower ownership threshold).

The Staff has also noted that where one proposal incorporates or encompasses the elements of a later proposal, the subsequent proposal may be excluded. See *Pfizer Inc.* (February 28, 2019) (permitting exclusion of a proposal requesting annual disclosure of the company's policy governing grassroots lobbying, which succeeded a similar prior proposal accompanied by a different supporting statement); *Duke Energy Corporation* (February 19, 2016) (permitting exclusion of a proposal requesting a review of the company's lobbying-related activities, which succeeded a similar prior proposal with a different stated purpose for the proposal); *Bank of America Corporation* (March 14, 2011) (permitting exclusion of a proposal requesting a special report to shareholders on the company's mortgage servicing options, foreclosure mitigation efforts and foreclosure processes, which succeeded a similar prior proposal using different terminology) and *Bank of America Corporation* (February 24, 2009) (permitting exclusion of a proposal requesting a policy that would require the company's senior executives to retain a significant portion of equity compensation for a certain period of time following termination, which succeeded a similar prior proposal requesting a policy that would require the company's senior executives to retain a significant portion of equity compensation for a differently measured period of time during employment).

On September 5, 2019, before the December 10, 2019 date upon which the Company received the Proposal, the Company received a proposal from the United Steelworkers (the "Prior

Proposal"). See Exhibit B. The Prior Proposal requests "the preparation of a report, updated annually, disclosing:

1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.
2. Payments by ExxonMobil used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.
3. Description of management's and the Board's decision making process and oversight for making payments described above."

The Company intends to include the Prior Proposal in its 2020 Proxy Materials.

The principal thrust and focus of both the Proposal and the Prior Proposal relate to the Company's lobbying expenses. The Prior Proposal is broad in scope and focuses on overall lobbying expenditures by the Company, whether direct or indirect or at the grassroots level, and is either entirely duplicative of the Proposal or encompasses the subject matters raised in the Proposal as follows:

- The Proposal asks for a report on if, and how, the Company's "lobbying activities... align with the goal of limiting average global warming." The Prior Proposal requests a report on all areas in which the Company may be engaged in lobbying, which would necessarily include lobbying related to the risks of climate change,¹ and encompasses federal and state lobbying expenditures, as well as lobbying outside the United States.
- The Proposal defines lobbying to include "(direct and through trade associations)," and the supporting statement in the Proposal focuses on concerns over trade associations and "other politically active organizations that speak for businesses." The Prior Proposal similarly targets "direct and indirect" lobbying, and the supporting statement in the Prior Proposal also references the Company's participation in trade associations and those associations' lobbying efforts.
- The Proposal asks that the report address any risks posed if the Company's lobbying activities are not "aligned" with its "plans," notably "align[ment]" with the Paris Climate Agreement on climate change. The Prior Proposal similarly notes "reputational risks when its lobbying contradicts company public positions," specifically with respect to the Paris Climate Agreement.

The Prior Proposal covers the same subject as the Proposal but with a broader scope, and therefore subsumes and incorporates the Proposal, which addresses a subset of issues (limited to

¹ As noted in the Company's 2019 Energy and Carbon Summary, the Company supports the Paris Climate Agreement and has long been actively engaged in related lobbying activities, including, for example, being an early and active proponent for a global revenue-neutral carbon tax as being a highly efficient policy tool to help harness market forces toward the goal of reducing global emissions. The Company is also a member of the Oil and Gas Climate Initiative, a voluntary collaboration of leading companies in the industry aimed at reducing climate-related risks. See <https://corporate.exxonmobil.com/Energy-and-environment/Looking-forward/Energy-and-Carbon-Summary>.

the subject of climate change) covered by the Proposal. In addition, the Company had also received another proposal prior to the Proposal, which the Company intends to include in its 2020 Proxy Materials, that asks for similar disclosure as the Prior Proposal and the Proposal with respect to the Company's political activities and contributions. That proposal is included as Exhibit C.

Accordingly, consistent with the Staff's previous interpretations of Rule 14a-8(i)(11), the Company believes that the Proposal may be excluded as substantially duplicative of the Prior Proposal.

CONCLUSION

The Company requests confirmation that the Staff will not recommend any enforcement action if, in reliance on the foregoing, the Company omits the Proposal from its 2020 Proxy Materials. If you should have any questions or need additional information, please contact the undersigned at (212) 450-4539 or louis.goldberg@davispolk.com. If the Staff does not concur with the Company's position, we would appreciate an opportunity to confer with the Staff concerning these matters prior to the issuance of its response.

Respectfully yours,



Louis L. Goldberg

Attachment

cc w/ att: James E. Parsons, Exxon Mobil Corporation

Adam M. Kanzer, BNP Paribas

Proposal

Climate Lobbying Report

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how, Exxon Mobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

Supporting Statement

According to the most recent annual "Emissions Gap Report" issued by the United Nations Environment Programme (November 26, 2019), critical gaps remain between the commitments national governments have made and the actions required to prevent the worst effects of climate change. Companies have an important and constructive role to play in enabling policy-makers to close these gaps.

Corporate lobbying activities that are inconsistent with meeting the goals of the Paris Agreement present regulatory, reputational and legal risks to investors. These efforts also present systemic risks to our economies, as delays in implementation of the Paris Agreement increase the physical risks of climate change, pose a systemic risk to economic stability and introduce uncertainty and volatility into our portfolios. We believe that Paris-aligned climate lobbying helps to mitigate these risks, and contributes positively to the long-term value of our investment portfolios.

Of particular concern are the trade associations and other politically active organizations that speak for business but, unfortunately, too often present forceful obstacles to progress in addressing the climate crisis.

As investors, we view fulfillment of the Paris Agreement's agreed goal-to hold the increase in the global average temperature to "well below" 2°C above preindustrial levels, and to pursue efforts to limit the temperature increase to 1.5°C— as an imperative. We are convinced that unabated climate change will have a devastating impact on our clients, plan beneficiaries, and the value of their portfolios. We see future "business as usual" scenarios of 3-4°C or greater as both unacceptable and uninvestable.

Two hundred institutional investors managing \$6.5 trillion recently wrote to ExxonMobil, seeking information on how the company is managing this critical governance issue. Insufficient information is presently available to help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company's name, and indirectly, through trade associations, align with the Paris Agreement's goals, and what ExxonMobil does to address any misalignments it has found. The investors received no response to their letter.

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Prior Proposal

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For purposes of this proposal, a 'grassroots lobbying communication' is a communication directed to the general public that (a) refers to specific legislation or regulation, (b) reflects a view on the legislation or regulation and (c) encourages the recipient of the communication to take action with respect to the legislation or regulation. 'Indirect lobbying' is lobbying engaged in by a trade association or other organization of which ExxonMobil is a member.

Both 'direct and indirect lobbying' and 'grassroots lobbying communications' include efforts at the local, state and federal levels.

The report shall be presented to the Audit Committee or other relevant oversight committees and posted on ExxonMobil's website.

Supporting Statement

We encourage transparency in ExxonMobil's use of funds to lobby. ExxonMobil spent \$99.43 million from 2010–2017 on federal lobbying. These figures do not include state lobbying expenditures, where ExxonMobil also lobbies but disclosure is uneven or absent. For example, ExxonMobil spent \$3,860,715 on lobbying in California from 2010–2017. Exxon also lobbies abroad, reportedly spending between €3.75m and €4m on lobbying in Brussels for 2017 ("Revealed: ExxonMobil's Private Dinner with Cyprus' Top EU Brass," *EU Observer*, August 12, 2018).

We commend ExxonMobil for ending its membership in the American Legislative Exchange Council ("Exxon Mobil Joins Exodus of Firms from Lobbying Group ALEC," *Reuters*, July 12, 2018). However, serious disclosure concerns remain. ExxonMobil belongs to the American Petroleum Institute, Business Roundtable (BRT), Chamber of Commerce and National Association of Manufacturers (NAM), which altogether spent \$260,410,014 on lobbying for 2016 and 2017. Both the BRT and NAM are lobbying against shareholder rights to file resolutions. ExxonMobil does not disclose its memberships in, or payments to, trade associations, or the amounts used for lobbying.

We are concerned that ExxonMobil's lack of lobbying disclosure presents reputational risks when its lobbying contradicts company public positions. For example, ExxonMobil supports the Paris climate agreement, yet was named one of the top three global corporations lobbying against effective climate policy, ("When Corporations Take Credit for Green Deeds Their Lobbying May Tell Another Story," *The Conversation*, July 17, 2018), and the Chamber undermined the Paris climate accord ("Paris Pullout Pits Chamber against Some of Its Biggest Members," *Bloomberg*, June 9, 2017). As shareholders, we believe that companies should ensure there is alignment between their own positions and their lobbying, including through trade associations.

Exxon Mobil Corp. Political Disclosure Shareholder Resolution

Resolved, that the shareholders of Exxon Mobil Corp. ("Exxon" or "Company") hereby request that the Company prepare and semiannually update a report, which shall be presented to the pertinent board of directors committee and posted on the Company's website, disclosing the Company's:

- (a) Policies and procedures for making electoral contributions and expenditures (direct and indirect) with corporate funds, including the board's role (if any) in that process; and
- (b) Monetary and non-monetary contributions or expenditures that could not be deducted as an "ordinary and necessary" business expense under section 162(e)(1)(B) of the Internal Revenue Code, including (but not limited to) contributions or expenditures on behalf of candidates, parties, and committees and entities organized and operating under section 501(c)(4) of the Internal Revenue Code, as well as the portion of any dues or payments made to any tax-exempt organization (such as a trade association) used for an expenditure or contribution that, if made directly by the Company, would not be deductible under section 162(e)(1)(B) of the Internal Revenue Code.

The report shall be made available within 12 months of the annual meeting and identify all recipients and the amount paid to each recipient from Company funds. This proposal does not encompass lobbying spending.

Supporting Statement

As long-term Exxon shareholders, we support transparency and accountability in corporate electoral spending. Disclosure is in the best interest of the Company and its shareholders. The Supreme Court recognized this in its 2010 Citizens United decision, which said, "[D]isclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

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We acknowledge that Exxon publicly discloses a policy on corporate political spending and its direct contributions to candidates, parties, and committees. We believe this is deficient because Exxon does not disclose the following:

- A full list of trade associations to which it belongs and the no-deductible portion under section 162(e)(1)(B) of the dues paid to each; and
- Payments to other third-party organizations, including those organizations under section 501(c)(4) of the Internal Revenue Code, that could be used for election-related purposes.

Information on indirect electoral spending through trade associations and 501(c)(4) groups cannot be obtained by shareholders unless the Company discloses it. This proposal asks the Company to disclose all of its electoral spending, both direct and indirect. This would bring our company in line with a growing number of leading companies, including AT&T, United Technologies, and ConocoPhillips, which present this information on their websites, The Company's Board and

shareholders need comprehensive disclosure to be able to fully evaluate the use of corporate assets in elections. We urge your support for this critical governance reform.

Shareholder Correspondence

Exhibit D

Bates, Tamara L

From: Hansen, Neil A
Sent: Tuesday, December 10, 2019 5:01 PM
To: Englande, Sherry M; Bates, Tamara L
Cc: Albright, Molina
Subject: FW: Shareholder Proposal Submission
Attachments: BNPPAM XOM Filing letter 121019.pdf; XOM Climate Lobbying Proposal FINAL.pdf

Importance: High

[REDACTED]

Neil A. Hansen

Vice President and Corporate Secretary,
Investor Relations and Office of the Secretary
Exxon Mobil Corporation

[REDACTED]
[REDACTED]

From: adam.kanzer@bnpparibas.com [mailto:adam.kanzer@bnpparibas.com]
Sent: Tuesday, December 10, 2019 2:44 PM
To: Hansen, Neil A <[REDACTED]>
Cc: Smith, Timothy <tsmith@bostontrustwalden.com>; Elizabeth R. Gordon <egordon@osc.ny.gov>; Edward Mason <edward.mason@churchofengland.org>
Subject: Shareholder Proposal Submission
Importance: High

Dear Mr. Hansen:

Attached, please find a shareholder proposal seeking a report on ExxonMobil's efforts to align its direct and indirect lobbying activities with the Paris Agreement. The submission of this proposal was prompted by a letter we helped coordinate back in September, on behalf of 200 institutional investors, seeking Exxon's response to a set of Investor Expectations on Corporate Climate Lobbying. Exxon did not respond. We always remain open to dialogue, and hope that we might be able to reach agreement to withdraw this proposal. As you may know, a dozen European companies have reached agreements with investors on these same investor expectations. I look forward to hearing from you.

Best,

Adam



BNP PARIBAS
ASSET MANAGEMENT

The asset manager for a changing world

Adam M. Kanzer

Follow us on Twitter: [@BNPPAM](https://twitter.com/BNPPAM)

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New York, NY 10166
Tel: +1 (212) 861-3251, Mob: +1 (917) 721-0648
adam.kanzer@bnpparibas.com

Classification: Public

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BNP PARIBAS
ASSET MANAGEMENT

Received

DEC 10 2019

N.A. HANSEN

December 10, 2019

Mr. Neil Hansen
Secretary
ExxonMobil Corporation
5959 Las Colinas Boulevard
Irving, TX 75039-2298

Via Federal Express and email ([REDACTED])

Re: Shareholder Proposal Submission

Dear Mr. Hansen:

I am writing on behalf of BNP Paribas Asset Management (BNPP AM), the investment management arm of BNP Paribas. BNPP AM is a global asset manager with more than \$480 billion in assets under management, as of September 30, 2019. Across our firm's portfolios, we hold more than 139,000 shares of ExxonMobil stock.

BNPP AM is committed to the Paris Agreement on climate change. As you are aware, we are members of the Climate Action 100+ (CA100+) a global five-year initiative led by investors to engage systemically important greenhouse gas emitters across the global economy that have significant opportunities to drive the clean energy transition and help achieve the goals of the Paris Agreement. We are calling on companies to improve governance on climate change, curb emissions and strengthen climate-related financial disclosures. We thank the ExxonMobil team for their efforts over the course of the past year to engage with investors on these critical issues.

As a parallel effort, we helped to launch a set of Investor Expectations on Corporate Climate Lobbying in Europe in 2018, followed by outreach to U.S. CA100+ companies in September, on behalf of 200 institutional investors managing \$6.5 trillion.¹ The investors did not receive a response from ExxonMobil. By contrast, investors have reached agreement with a dozen European companies, including Shell, VW and Repsol, to align their practices with the Investor Expectations.

We are submitting the attached proposal for inclusion in the next proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. We have held more than \$2,000 worth of ExxonMobil shares in our BNP Paribas Easy MSCI North America Ex CW portfolio for greater than one year, and will maintain ownership of the required number of shares through the date of the next stockholders' annual meeting. A letter verifying our ownership of ExxonMobil shares from our custodian is forthcoming, under separate cover. A representative of the

¹ You can find the Investor Expectations here

<https://www.ceres.org/sites/default/files/INVESTOR%20EXPECTATIONS%20ON%20CORPORATE%20LOBBYING%20ON%20CLIMATE%20CHANGE%209.19.pdf>

filers will attend the stockholders' meeting to move the resolution as required by SEC Rules.

We may be joined by other investors in submitting this proposal. Please consider BNP Paribas Asset Management as the lead filer.

We welcome the opportunity to discuss these issues further with you and hope that we may be able to reach agreement to allow us to withdraw the proposal. I can be reached at 212 681-3251 or at adam.kanzer@bnpparibas.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam M. Kanzer', with a long horizontal flourish extending to the right.

Adam M. Kanzer
Head of Stewardship – Americas

cc:

Tim Smith, Boston Trust Walden
Edward Mason, Church Commissioners of England
Elizabeth Gordon, New York State Common Retirement Fund

Climate Lobbying Report

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how, ExxonMobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

Supporting Statement

According to the most recent annual "Emissions Gap Report" issued by the United Nations Environment Programme (November 26, 2019), critical gaps remain between the commitments national governments have made and the actions required to prevent the worst effects of climate change. Companies have an important and constructive role to play in enabling policy-makers to close these gaps.

Corporate lobbying activities that are inconsistent with meeting the goals of the Paris Agreement present regulatory, reputational and legal risks to investors. These efforts also present systemic risks to our economies, as delays in implementation of the Paris Agreement increase the physical risks of climate change, pose a systemic risk to economic stability and introduce uncertainty and volatility into our portfolios. We believe that Paris-aligned climate lobbying helps to mitigate these risks, and contributes positively to the long-term value of our investment portfolios.

Of particular concern are the trade associations and other politically active organizations that speak for business but, unfortunately, too often present forceful obstacles to progress in addressing the climate crisis.

As investors, we view fulfillment of the Paris Agreement's agreed goal—to hold the increase in the global average temperature to "well below" 2°C above preindustrial levels, and to pursue efforts to limit the temperature increase to 1.5°C— as an imperative. We are convinced that unabated climate change will have a devastating impact on our clients, plan beneficiaries, and the value of their portfolios. We see future "business as usual" scenarios of 3-4°C or greater as both unacceptable and uninvestable.

Two hundred institutional investors managing \$6.5 trillion recently wrote to ExxonMobil, seeking information on how the company is managing this critical governance issue. Insufficient information is presently available to help investors understand how ExxonMobil works to ensure that its lobbying activities, directly, in the company's name, and indirectly, through trade associations, align with the Paris Agreement's goals, and what ExxonMobil does to address any misalignments it has found. The investors received no response to their letter.

We commend the company for recent positive steps, such as public support for strong methane regulations and the decision to withdraw from membership in the American Legislative Exchange Council (ALEC) because of ALEC's positions on climate change. However, information we do have on ExxonMobil's ongoing lobbying efforts through trade associations still presents serious concerns.

Thus, we urge the Board and management to assess the company's climate related lobbying and report to shareholders.



BNP PARIBAS
ASSET MANAGEMENT

Received

DEC 11 2019

N.A. HANSEN

December 10, 2019

Mr. Neil Hansen
 Secretary
 ExxonMobil Corporation
 5959 Las Colinas Boulevard
 Irving, TX 75039-2298

RECEIVED
 DEC 12 2019
 S.M. ENGLANDE

Via Federal Express and email ([REDACTED])

Re: Shareholder Proposal Submission

Dear Mr. Hansen:

I am writing on behalf of BNP Paribas Asset Management (BNPP AM), the investment management arm of BNP Paribas. BNPP AM is a global asset manager with more than \$480 billion in assets under management, as of September 30, 2019. Across our firm's portfolios, we hold more than 139,000 shares of ExxonMobil stock.

BNPP AM is committed to the Paris Agreement on climate change. As you are aware, we are members of the Climate Action 100+ (CA100+) a global five-year initiative led by investors to engage systemically important greenhouse gas emitters across the global economy that have significant opportunities to drive the clean energy transition and help achieve the goals of the Paris Agreement. We are calling on companies to improve governance on climate change, curb emissions and strengthen climate-related financial disclosures. We thank the ExxonMobil team for their efforts over the course of the past year to engage with investors on these critical issues.

As a parallel effort, we helped to launch a set of Investor Expectations on Corporate Climate Lobbying in Europe in 2018, followed by outreach to U.S. CA100+ companies in September, on behalf of 200 institutional investors managing \$6.5 trillion.¹ The investors did not receive a response from ExxonMobil. By contrast, investors have reached agreement with a dozen European companies, including Shell, VW and Repsol, to align their practices with the Investor Expectations.

We are submitting the attached proposal for inclusion in the next proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. We have held more than \$2,000 worth of ExxonMobil shares in our BNP Paribas Easy MSCI North America Ex CW portfolio for greater than one year, and will maintain ownership of the required number of shares through the date of the next stockholders' annual meeting. A letter verifying our ownership of ExxonMobil shares from our custodian is forthcoming, under separate cover. A representative of the

¹ You can find the Investor Expectations here:

<https://www.ceres.org/sites/default/files/INVESTOR%20EXPECTATIONS%20ON%20CORPORATE%20LOBBYING%20ON%20CLIMATE%20CHANGE%209.19.pdf>

filers will attend the stockholders' meeting to move the resolution as required by SEC Rules

We may be joined by other investors in submitting this proposal. Please consider BNP Paribas Asset Management as the lead filer.

We welcome the opportunity to discuss these issues further with you and hope that we may be able to reach agreement to allow us to withdraw the proposal. I can be reached at 212 681-3251 or at adam.kanzer@bnpparibas.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam M. Kanzer', is written over a horizontal dashed line.

Adam M. Kanzer
Head of Stewardship – Americas

cc:

Tim Smith, Boston Trust Walden
Edward Mason, Church Commissioners of England
Elizabeth Gordon, New York State Common Retirement Fund

Climate Lobbying Report

Shareholders request that the Board of Directors conduct an evaluation and issue a report within the next year (at reasonable cost, omitting proprietary information) describing if, and how, ExxonMobil's lobbying activities (direct and through trade associations) align with the goal of limiting average global warming to well below 2 degrees Celsius (the Paris Climate Agreement's goal). The report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

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As investors, we view fulfillment of the Paris Agreement's agreed goal—to hold the increase in the global average temperature to "well below" 2°C above preindustrial levels, and to pursue efforts to limit the temperature increase to 1.5°C— as an imperative. We are convinced that unabated climate change will have a devastating impact on our clients, plan beneficiaries, and the value of their portfolios. We see future "business as usual" scenarios of 3-4°C or greater as both unacceptable and uninvestable.

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Thus, we urge the Board and management to assess the company's climate related lobbying and report to shareholders.

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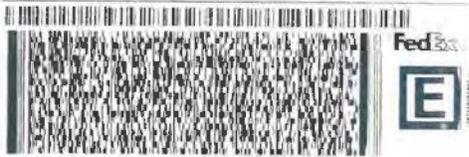
Page 1 of 2

ORIGIN: DALA (214) 981-2331
ORIGIN ZIP: 75039
SHIP TO: 5959 LAS COLINAS BOULEVARD
SULPARK AVENUE
11TH FLOOR
NEW YORK, NY 10019
UNITED STATES

SHIP DATE: 13DEC11
ACTIVITY: 100_5
CAD: 742043110274102
BY: SEACDF

MR. NEIL HANSEN
EXXON MOBIL CORPORATION
5959 LAS COLINAS BOULEVARD

IRVING TX 75039



7772 0476 5339 P EC 10.3/A
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75039
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Extremem
This Package Has
Been X-Rayed By
Central Mail





Envelop



RECEIVED
DEC 13 2019
S.M. ENGLANDE

POSITION CERTIFICATE

Dear Madam, dear Sir,

We, BNP PARIBAS Securities Services, as custodian for BNP PARIBAS Asset Management, are pleased to inform you that as of 10/12/2019, errors or omissions excepted, the following fund position is recorded in our books :

Account Label : BNP PARIBAS EASY – MSCI NORTH AMERICA EX CW

Account Number : ***

Isin code : US30231G1022

Name of Securities : EXXON MOBIL CORP

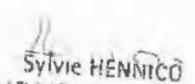
Country : UNITED STATES

Position : 70609

Please note that the position on Isin US30231G1022, account *** , had a market value of at least \$ 2,000.00 for at least twelve months prior to, and including, said date of 10/12/2019.

Sincerely yours.


Stéphane BAUCHOT
Corporate Action Group Manager


Sylvie HENNICO
Head of Global Custody Account Management



VIA UPS – OVERNIGHT DELIVERY

December 17, 2019

Mr. Adam M. Kanzer
Head of Stewardship - Americas
BNP Paribas Asset Management
200 Park Avenue, 11th Floor
New York, NY 10166

Dear Mr. Kanzer:

This will acknowledge receipt of the proposal concerning a Report on Climate Lobbying (the "Proposal"), which you have submitted on behalf of BNP Paribas Asset Management (the "Proponent") in connection with ExxonMobil's 2020 annual meeting of shareholders. However, your submission contains a procedural deficiency, which the Securities and Exchange Commission ("SEC") regulations require us to bring to your attention.

No Authorization

We note that the Proposal does not include proper documentation of authority from the shareholder to the representative to submit the proposal. Pursuant to SEC Staff Legal Bulletin 14I, the submission of a proposal by proxy (i.e., by a representative rather than by the shareholder directly) must include proper documentation describing the shareholder's delegation of authority to the proxy. This documentation must:

- identify the shareholder-proponent and the person or entity selected as proxy;
- identify the company to which the proposal is directed;
- identify the annual or special meeting for which the proposal is submitted;
- identify the specific proposal to be submitted (e.g., proposal to lower the threshold for calling a special meeting from 25% to 10%); and
- be signed and dated by the shareholder.

To correct this deficiency, you must provide documentation as described above constituting BNP Paribas Asset Management as proxy for BNP Paribas Easy MSCI North America Ex CW, or otherwise documenting the authority of BNP Paribas Asset Management to act on behalf of the shareholder, for purposes of this proposal.

The SEC's rules require that any response to this letter, correcting the deficiency identified (evidence of authority), must be postmarked or transmitted electronically to us no later than 14 calendar days from the date this letter is received. Please mail any response to me at

ExxonMobil at the address shown above. Alternatively, you may send your response to me via facsimile at 972-940-6748, or by email to shareholderrelations@exxonmobil.com.

You should note that, if the Proposal is not withdrawn or excluded, the Proponent or the Proponent's representative, who is qualified under New Jersey law to present the Proposal on the Proponent's behalf, must attend the annual meeting in person to present the Proposal. Under New Jersey law, only shareholders or their duly constituted proxies are entitled as a matter of right to attend the meeting.

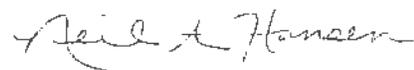
If the Proponent intends for a representative to present the Proposal, the Proponent must provide documentation that specifically identifies their intended representative by name and specifically authorizes the representative to act as the Proponent's proxy at the annual meeting. To be a valid proxy entitled to attend the annual meeting, the representative must have the authority to vote the Proponent's shares at the meeting. A copy of this authorization meeting state law requirements should be sent to my attention in advance of the meeting. The authorized representative should also bring an original signed copy of the proxy documentation to the meeting and present it at the admissions desk, together with photo identification if requested, so that our counsel may verify the representative's authority to act on the Proponent's behalf prior to the start of the meeting.

In the event there are co-filers for this Proposal and in light of the guidance in SEC Staff Legal Bulletin No. 14F dealing with co-filers of shareholder proposals, it is important to ensure that the lead filer has clear authority to act on behalf of all co-filers, including with respect to any potential negotiated withdrawal of the proposal. Unless the lead filer can represent that it holds such authority on behalf of all co-filers, and considering SEC staff guidance, it will be difficult for us to engage in productive dialogue concerning this Proposal.

Note that under Staff Legal Bulletin No. 14F, the SEC will distribute no-action responses under Rule 14a-8 by email to companies and proponents. We encourage all proponents and any co-filers to include an email contact address on any additional correspondence to ensure timely communication in the event the Proposal is subject to a no-action request.

We are interested in discussing this Proposal and will contact you in the near future.

Sincerely,



NAH/sme

Enclosures

c: Timothy Smith-Walden
Edward Mason
Elizabeth Gordon



U.S. Securities and Exchange Commission

Division of Corporation Finance Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

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

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

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/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-8² 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,³ 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.²

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

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

participant?

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

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

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

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

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

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

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

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

D. The submission of revised proposals

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

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

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

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

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

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

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

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

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

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a *company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal.* In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act

on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

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

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

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

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

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

¹ See Rule 14a-8(b).

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

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

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

⁵ See Exchange Act Rule 17Ad-8.

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

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

⁸ *Techne Corp.* (Sept. 20, 1988).

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

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

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

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

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

the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

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

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

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

<http://www.sec.gov/interps/legal/cfsib14f.htm>

[Home](#) | [Previous Page](#)

Modified: 10/18/2011

§240.14a-8 Shareholder proposals.

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

(a) *Question 1: What is a proposal?* A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

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

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

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

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d-101), Schedule 13G (§240.13d-102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the

company:

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

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

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

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

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

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

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

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

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later

have to make a submission under §240.14a-8 and provide you with a copy under Question 10 below, §240.14a-8(j).

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

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

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

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

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

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

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

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

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

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which 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 relates to a nomination or an election for membership on the company's board of directors or analogous governing body or a procedure for such nomination or election;

(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;

(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, §240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

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

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

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

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008]

PACKAGE PICKUP NOTICE

Complete the below, print a hardcopy and attach to the package for your HQ Mail Clerk for pickup

UPS - GROUND UPS - NEXT DAY DHL REGISTERED (INT'L) CERTIFIED (DOMESTIC) DATE: December 12, 2019

EXPRESS MAIL SATURDAY DELIVERY OTHER (PLEASE SPECIFY)

PROOF OF DELIVERY Y 105X DEC 17, 2019 ACT WT 0.1 LBS #PK 1
SVC 10A PAK BL WT
TRACKING# 1275105X0151654437 ALL CURRENCY USD
BILL LADING: 100595-6401-INVESTOR RELATIONS
REF 2: JF/M CLOUTHIER

FROM (NAME/DEPARTMENT)
Marie Clouthier for Sherry M. Engla
ADDRESS TO
MR. ADAM M. KANZER
HEAD OF STEWARDSHIP - AMERICAS
BNP PARIBAS ASSET MANAGEMENT
200 PARK AVENUE, 11TH FLOOR
NEW YORK, NY 10166

HC 0.00 CNS 0.00 FRT: SHP
SHIPMENT NR RATE CHARGES: SVC 14.77 USD
DV 0.00 COD 0.00 RS 0.00
SC 0.00 DGD 0.00
NH 0.00 PR 0.00 ROD 0.00
TOT NR CHG 14.77 NR+HC 14.77

THIS DOCUMENT IS NOT AN INVOICE

CONTACT TELEPHONE
MR. ADAM M. KANZER 212-681-3251

CONTENTS
Receipt Letter

MAILROOM USE ONLY
LETTER/PACKAGE NO. RECEIVED BY (CENTRAL MAILROOM) / DATE & TIME

MAIL RECEIPT 130-209 ID Number: ITX 17:50:29

Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

1Z75105X0151654437

Weight

0.10 LBS

Service

UPS Next Day Air®

Shipped / Billed On

12/17/2019

Delivered On

12/18/2019 2:39 P.M.

Delivered To

NEW YORK, NY, US

Received By

R THWAITES

Left At

Reception

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 12/30/2019 10:59 A.M. EST

PACKAGE PICKUP NOTICE

Complete the below, print a hardcopy and attach to the package for your HQ Mail Clerk for pickup.

UPS - GROUND UPS - NEXT DAY DHL REGISTERED (INT'L) CERTIFIED (DOMESTIC) ACT WT 0.1 LBS #PK 1

EXPRESS MAIL SATURDAY DELIVERY OTHER SERVICE DEC 17, 2019 PAK BL WT ALL CURRENCY USD

PROOF OF DELIVERY YES TRACKING# 1275105X0151304047 BILL LADING: 100595-6401-INVESTOR RELATIONS REF 2: JF/M. CLOUTHIER

FROM (NAME/DEPARTMENT) Marie Clouthier for Sherry M. Englande CNS 0.00 FRT: SHP SVC 14.77 USD

ADDRESSED TO MS. ELIZABETH GORDON SHIPMENT NR RATE CHARGES: RS 0.00

NEW YORK STATE COMMON RETIREM 59 MAIDEN LANE, 30TH FLOOR DV 0.00 COD 0.00 DGD 0.00 PR 0.00 NR+HC 14.77

NEW YORK, NY 10038 THIS DOCUMENT IS NOT AN INVOICE

CONTACT TELEPHONE

MS. ELIZABETH GORDON

CONTENTS

Letter to Mr. Adam M. Kanzer, BNP Paribas Asset Management

MAILROOM USE ONLY

LETTER/PACKAGE NO. RECEIVED BY (CENTRAL MAILROOM) / DATE & TIME

MAIL RECEIPT 130 2016 ID Number: ITX14:27:57

IPS rev 1 3.3.5.12

Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below

Tracking Number

1Z75105X0151304047

Weight

0.10 LBS

Service

UPS Next Day Air®

Shipped / Billed On

12/17/2019

Delivered On

12/18/2019 11:19 A.M.

Delivered To

NEW YORK, NY, US

Received By

HAROLD

Left At

Mail Room

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 12/30/2019 11:00 A.M. EST

PACKAGE PICKUP NOTICE

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UPS - GROUND
 UPS - NEXT DAY
 DHL
 REGISTERED (INT'L)
 CERTIFIED (DOMESTIC)
 DATE December 15, 2019
 EXPRESS MAIL
 SATURDAY DELIVERY
 OTHER (PLEASE SPECIFY) **First Class Mail**

PROOF OF DELIVERY	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CHARGE CODE 100595
FROM: (NAME/DEPARTMENT)	Marie Clouthier for Sherry M. Englands / IR	EXT: 972-940-6722 ROOM NO: 2532

ADDRESSED TO
 MR. EDWARD MASON
 HEAD OF RESPONSIBLE INVESTMENT
 THE CHURCH OF ENGLAND
 CHURCH HOUSE, GREAT SMITH STREET
 LONDON SW1P 3AZ

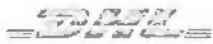
Waybill: 7420576901 -- Date 2019-12-17 -- Pieces 1/1 --
 Sender's Ref: JF/M CLOUTHIER/100595 -- Postcode SW1P3AZ
 UNITED KINGDOM -- Service XPD -- Billing to Sender --
 Customs NVO -- Shipment Weight @ 5 lb -- Discounted Total
 Charge \$10.26

CONTACT
 MR. EDWARD MASON
 CONTENTS
 Copy of Letter to Mr. Adam M. Kanzer, BNP Par

LETTER/PACKAGE NO. _____ RECEIVED BY (CENTRAL MAILROOM) / DATE & TIME _____

MAIL RECEIPT 130-7096

ID Number: ITX14:22:00



Track DHL Express Shipments

Result Summary

Waybill: 7420575901

Signed for by: HASSAN

Get Signature Proof of Delivery

Friday, December 20, 2019 at 14:17

Origin Service Area:

DALLAS, TX - IRVING - USA

Destination Service Area:

LONDON - LONDON - UK

1 Piece

Friday, December 20, 2019		Location	Time	Piece
25	Delivered - Signed for by HASSAN	LONDON	14:17	1 Piece
24	With delivery courier	LONDON - UK	10:05	1 Piece
23	Arrived at Delivery Facility in LONDON - UK	LONDON - UK	08:25	1 Piece
22	Departed Facility in LONDON-HEATHROW - UK	LONDON-HEATHROW - UK	06:43	1 Piece
21	Processed at LONDON-HEATHROW - UK	LONDON-HEATHROW - UK	06:34	1 Piece
20	Arrived at Sort Facility LONDON-HEATHROW - UK	LONDON-HEATHROW - UK	05:49	1 Piece
19	Departed Facility in LUTON - UK	LUTON - UK	04:55	1 Piece
18	Transferred through LUTON - UK	LUTON - UK	04:23	1 Piece
17	Shipment on hold	LUTON - UK	04:21	
16	Departed Facility in BRUSSELS - BELGIUM	BRUSSELS - BELGIUM	04:29	1 Piece
15	Processed at BRUSSELS - BELGIUM	BRUSSELS - BELGIUM	02:01	1 Piece
14	Arrived at Sort Facility BRUSSELS - BELGIUM	BRUSSELS - BELGIUM	00:35	1 Piece
Thursday, December 19, 2019		Location	Time	Piece
13	Departed Facility in BARCELONA - SPAIN	BARCELONA - SPAIN	22:41	1 Piece
12	Shipment on hold	LONDON - UK	19:38	1 Piece
11	Processed at BARCELONA - SPAIN	BARCELONA - SPAIN	15:24	1 Piece
10	Arrived at Delivery Facility in LONDON - UK	LONDON - UK	06:05	1 Piece
9	Departed Facility in EAST MIDLANDS - UK	EAST MIDLANDS - UK	03:08	1 Piece
8	Processed at EAST MIDLANDS - UK	EAST MIDLANDS - UK	02:47	1 Piece
Wednesday, December 18, 2019		Location	Time	Piece
7	Arrived at Sort Facility EAST MIDLANDS - UK	EAST MIDLANDS - UK	19:55	1 Piece
6	Departed Facility in CINCINNATI HUB - USA	CINCINNATI HUB, OH - USA	06:41	1 Piece
5	Processed at CINCINNATI HUB - USA	CINCINNATI HUB, OH - USA	06:59	1 Piece
4	Arrived at Sort Facility CINCINNATI HUB - USA	CINCINNATI HUB, OH - USA	03:44	1 Piece
Tuesday, December 17, 2019		Location	Time	Piece
3	Departed Facility in DALLAS - USA	DALLAS, TX - USA	23:28	1 Piece
2	Processed at DALLAS - USA	DALLAS, TX - USA	22:20	1 Piece
1	Shipment picked up	DALLAS, TX - USA	17:42	1 Piece

Contact: DHL Express Customer Service

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Bates, Tamara L

From: Englande, Sherry M
Sent: Wednesday, December 18, 2019 5:40 PM
To: Hansen, Neil A; adam.kanzer@bnpparibas.com
Cc: Shareholder Relations /SM
Subject: RE: Shareholder Proposal Submission

Dear Adam –

Thank you for your email. We received the ownership verification sent and have incorporated it into your file. Thank you for your prompt attention to that requirement.

The only outstanding item is what appears to be mis-alignment between the proponent, BNP Paribas Asset Management, and the shareowner, BNP Paribas Easy – MSCI North America Ex CW.

I apologize if this was unclear in our letter dated December 17.

I hope that this additional information is helpful to you.

Thank you

Sherry

From: Hansen, Neil A
Sent: Wednesday, December 18, 2019 4:03 PM
To: adam.kanzer@bnpparibas.com
Cc: Englande, Sherry M <[REDACTED]>; Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: RE: Shareholder Proposal Submission

Sherry,

If you haven't already, will you please follow-up with Adam. But, if I remember correctly, we since received the proper documentation. Thank you.

Neil A. Hansen

Vice President and Corporate Secretary,
Investor Relations and Office of the Secretary
Exxon Mobil Corporation

[REDACTED]
[REDACTED]

From: adam.kanzer@bnpparibas.com [<mailto:adam.kanzer@bnpparibas.com>]
Sent: Wednesday, December 18, 2019 11:47 AM
To: Hansen, Neil A <[REDACTED]>
Cc: Englande, Sherry M <[REDACTED]>; Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: RE: Shareholder Proposal Submission
Importance: High

Dear Mr. Hansen:

I just received your letter dated December 17, noting that our shareholder proposal submission lacked proper documentation of authority to submit the proposal. I am unclear whether our letters crossed in the mail, as yours does

not acknowledge receipt of the ownership verification I provided on December 13, which is identical in form to the proof of ownership we submitted last year in support of a different proposal. That letter was accepted, without challenge from Exxon, as has our participation in the ongoing Climate Action 100+ engagement.

Can you clarify whether your letter identifies a deficiency in our filing letter (due to a lack of proof of ownership) or whether you are claiming a deficiency in our proof of ownership letter?

I would appreciate a response today so that I can rectify any deficiencies before the holidays. I'm available at (212) 681-3251 if you prefer to discuss by phone.

Thank you.

Adam

Classification: Public

From: KANZER Adam
Sent: Monday, December 16, 2019 4:18 PM
To: 'Englande, Sherry M' <[REDACTED]>
Subject: RE: Shareholder Proposal Submission

Dear Ms. Englande –

I just caught a typo in my email – the letter is reflective of our holdings as of December 10, 2019, the date of submission of our proposal. Thanks for acknowledging receipt.

Sincerely,

Adam

Classification: Public

From: Englande, Sherry M <[REDACTED]>
Sent: Friday, December 13, 2019 7:26 PM
To: KANZER Adam <adam.kanzer@bnpparibas.com>
Subject: FW: Shareholder Proposal Submission

Dear Mr. Kanzer –

Thank you for your email and submission for ownership verification. We will review the material and incorporate it into your file. Thank you for your help with this important process.

Sherry M. Englande
ESG Engagement Manager

Exxon Mobil Corporation
5959 Las Colinas Blvd., Room 2624
Irving, Texas 75039-2298
[REDACTED]
[REDACTED]

My Site

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From: adam.kanzer@bnpparibas.com [<mailto:adam.kanzer@bnpparibas.com>]
Sent: Friday, December 13, 2019 11:33 AM
To: Hansen, Neil A <[REDACTED]>
Subject: RE: Shareholder Proposal Submission

Dear Mr. Hansen:

Attached, please find a letter from our custodian, BNP Paribas Securities Services, verifying our eligibility to submit our shareholder proposal seeking a Climate Lobbying Report. Please note that as a European institution, the letter reports the date in the DD/MM/YYYY format. It is reflective as of December 12, 2019.

I would appreciate it if you could confirm receipt and let me know if this is sufficient to verify our ownership under Rule 14a-8.

Sincerely,

Adam

Classification: Public

From: KANZER Adam
Sent: Tuesday, December 10, 2019 3:44 PM
To: '[REDACTED]' <[REDACTED]>
Cc: 'Smith, Timothy' <tsmith@bostontrustwalden.com>; Elizabeth R. Gordon <egordon@osc.ny.gov>; 'Edward Mason' <edward.mason@churchofengland.org>
Subject: Shareholder Proposal Submission
Importance: High

Dear Mr. Hansen:

Attached, please find a shareholder proposal seeking a report on ExxonMobil's efforts to align its direct and indirect lobbying activities with the Paris Agreement. The submission of this proposal was prompted by a letter we helped coordinate back in September, on behalf of 200 institutional investors, seeking Exxon's response to a set of Investor Expectations on Corporate Climate Lobbying. Exxon did not respond. We always remain open to dialogue, and hope that we might be able to reach agreement to withdraw this proposal. As you may know, a dozen European companies have reached agreements with investors on these same investor expectations. I look forward to hearing from you.

Best,

Adam



The asset manager for a changing world

Adam M. Kanzer

200 Park Avenue 11th Floor
New York NY 10166
Tel: +1 (212) 681-3251 | Mob: +1 (917) 721-0608
adam.kanzer@bnpparibas.com

Follow us on Twitter: [@BNPPAM](https://twitter.com/BNPPAM)



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Bates, Tamara L

From: adam.kanzer@bnpparibas.com
Sent: Thursday, December 19, 2019 11:25 AM
To: Englande, Sherry M
Subject: RE: Shareholder Proposal Submission

Sherry -

Can you confirm whether you have what you need?

Adam

Classification: Public

From: KANZER Adam <adam.kanzer@bnpparibas.com>
Sent: Wednesday, December 18, 2019 7:49 PM
To: Englande, Sherry M <[REDACTED]>
Cc: Hansen, Neil A <[REDACTED]>; Shareholder Relations /SM <shareholderrelations@exxonmobil.com>
Subject: Re: Shareholder Proposal Submission

Sherry -

I am unclear what you mean by misalignment. We are filing on behalf of a portfolio we manage - an index fund called BNP Paribas Easy - MSCI North America Ex CW (an index that excludes controversial weapons). This is the same portfolio we used last year. As I think is clear from my letters, we have authority to submit shareholder proposals on behalf of the portfolio.

If this is not clear, can we discuss tomorrow?

Thanks.

Adam

On Dec 18, 2019, at 6:42 PM, Englande, Sherry M <[REDACTED]> wrote:

Dear Adam -

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The only outstanding item is what appears to be mis-alignment between the proponent, BNP Paribas Asset Management, and the shareowner, BNP Paribas Easy - MSCI North America Ex CW.

I apologize if this was unclear in our letter dated December 17.

I hope that this additional information is helpful to you.

Thank you

Sherry

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Sent: Wednesday, December 18, 2019 4:03 PM
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<shareholderrelations@exxonmobil.com>
Subject: RE: Shareholder Proposal Submission

Sherry,

If you haven't already, will you please follow-up with Adam. But, if I remember correctly, we since received the proper documentation. Thank you.

Neil A. Hansen
Vice President and Corporate Secretary,
Investor Relations and Office of the Secretary
Exxon Mobil Corporation
[REDACTED]
[REDACTED]

From: adam.kanzer@bnpparibas.com [<mailto:adam.kanzer@bnpparibas.com>]
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To: Hansen, Neil A <[REDACTED]>
Cc: Englande, Sherry M <[REDACTED]>; Shareholder Relations /SM
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Importance: High

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Can you clarify whether your letter identifies a deficiency in our filing letter (due to a lack of proof of ownership) or whether you are claiming a deficiency in our proof of ownership letter?

I would appreciate a response today so that I can rectify any deficiencies before the holidays. I'm available at (212) 681-3251 if you prefer to discuss by phone.

Thank you.

Adam

Classification: Public

From: KANZER Adam
Sent: Monday, December 16, 2019 4:18 PM
To: 'Englande, Sherry M' <[REDACTED]>
Subject: RE: Shareholder Proposal Submission

Dear Ms. Englande -

I just caught a typo in my email – the letter is reflective of our holdings as of December 10, 2019, the date of submission of our proposal. Thanks for acknowledging receipt.

Sincerely,

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Classification: Public

From: Englande, Sherry M <[REDACTED]>
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Subject: FW: Shareholder Proposal Submission

Dear Mr. Kanzer -

Thank you for your email and submission for ownership verification.
We will review the material and incorporate it into your file.
Thank you for your help with this important process.

Sherry M. Englande
ESG Engagement Manager

Exxon Mobil Corporation
5959 Las Colinas Blvd., Room 2624
Irving, Texas 75039-2298

[REDACTED]

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To: [REDACTED] <[REDACTED]>

Cc: 'Smith, Timothy' <tsmith@bostontrustwalden.com>; Elizabeth R. Gordon <egordon@osc.ny.gov>; 'Edward Mason' <edward.mason@churchofengland.org>

Subject: Shareholder Proposal Submission

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Attached, please find a shareholder proposal seeking a report on ExxonMobil's efforts to align its direct and indirect lobbying activities with the Paris Agreement. The submission of this proposal was prompted by a letter we helped coordinate back in September, on behalf of 200 institutional investors, seeking Exxon's response to a set of Investor Expectations on Corporate Climate Lobbying. Exxon did not respond. We always remain open to dialogue, and hope that we might be able to reach agreement to withdraw this proposal. As you may know, a dozen European companies have reached agreements with investors on these same investor expectations. I look forward to hearing from you.

Best,

Adam

<image001.png>

Adam M. Kanzer

200 Park Avenue, 11th Floor
New York, NY 10166
Tel. +1 (212) 681-3251 Mob. +1 (917) 721-0608
adam.kanzer@bnpparibas.com

<image002.jpg>

Follow us on Twitter: [@BNPPAM](https://twitter.com/BNPPAM)

<image003.jpg>

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From: adam.kanzer@bnpparibas.com
Sent: Thursday, December 19, 2019 3:40 PM
To: Englande, Sherry M
Cc: Hansen, Neil A
Subject: RE: Shareholder Proposal Submission

Sherry –

Thanks for your voicemail. It sounds like we are set.

As I said earlier, we do have full authority to submit proposals on behalf of this portfolio. As you know, this is the third time BNP Paribas Asset Management has submitted a shareholder proposal to Exxon Mobil, and the second time we've submitted on behalf of this particular portfolio. Exxon did not raise any concerns about 'lack of authority' in the past.

In my view, SLB 14I was not drafted to address this situation, where an asset manager acts on behalf of a managed portfolio. It was written to address concerns raised when an individual is the beneficial owner. Had their intention been otherwise, I'm sure SEC Staff would have defined "shareholder" more clearly in the requirement for the authorization to be "signed and dated by the shareholder." Every asset manager and pension fund is in the same position. I have been submitting proposals for more than 20 years on behalf of legal entities and have not had an issue.

Best wishes for the holidays – I hope you'll have some time to enjoy.

Adam

Classification: Public

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Best,

Adam

<image001.png>

Adam M. Kanzer

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adam.kanzer@bnpparibas.com

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Clouthier, Marie A

From: Clouthier, Marie A
Sent: Monday, January 06, 2020 4:46 PM
To: 'adam.kanzer@bnpparibas.com'
Cc: Englande, Sherry M
Subject: RE: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Dear Adam,

Thank you for your note

I have sent you a meeting notice for Tuesday, February 4, 2020 at 4:00p.m (Central Time)

If you have any questions, please let me know

Sincerely,

Marie Clouthier

Exxon Mobil Corporation

Investor Relations / Office of the Secretary

[REDACTED]

[REDACTED]

From: adam.kanzer@bnpparibas.com (mailto:adam.kanzer@bnpparibas.com)
Sent: Monday, January 06, 2020 4:21 PM
To: Clouthier, Marie A <[REDACTED]>
Cc: Englande, Sherry M <[REDACTED]>
Subject: RE: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Marie –

Thanks for reaching out. I'm available at either of these times. Please let me know which you prefer.

Adam

Classification: Public

From: Clouthier, Marie A <[REDACTED]>
Sent: Friday, January 3, 2020 3:51 PM
To: KANZER Adam <adam.kanzer@bnpparibas.com>
Cc: Englande, Sherry M <[REDACTED]>
Subject: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Dear Mr. Kanzer,

We hope that this email finds you well. Neil Hansen would like to schedule an hour to discuss your proposal regarding a report on climate lobbying for inclusion in the 2020 Proxy Statement.

Below you will find suggested date/time (Central Time) slots. We plan for the call to be no longer than an hour. We believe proponent engagement is important and value your perspective on this proposal, so we appreciate your willingness to meet by phone. Please respond to Marie Clouthier at [REDACTED] or [REDACTED] with your preferred timing as soon as convenient.

ExxonMobil Engagement Availability Date/Time All time slots are CT	
DATE	(CT) TIME SLOTS
2/4/2020	4-5PM
2/5/2020	10-11AM

We look forward to talking with you soon.

Sincerely,

Marie Clouthier

Exxon Mobil Corporation

Investor Relations / Office of the Secretary

[REDACTED]
[REDACTED]

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Clouthier, Marie A

Subject: Proponent Call Report on Climate Lobbying Proposal
Location: Skype Meeting
Start: Tue 2/4/2020 4:00 PM
End: Tue 2/4/2020 5:00 PM
Show Time As: Tentative
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: Clouthier, Marie A
Required Attendees: Hansen, Neil A, ada.n.kanzer@bnpparibas.com, Englande, Sherry M

Sent on behalf of Neil Hansen

→ [Join Skype Meeting](#)

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██████████ (USA, Dallas)

English (United States)

[Find a local number](#)

Conference ID: ██████████

[Forgot your dial-in PIN?](#) | [Help](#)

Clouthier, Marie A

From: adam.kanzer@bnpparibas.com
Sent: Wednesday, January 08, 2020 10:29 AM
To: Clouthier, Marie A
Cc: Englande, Sherry M
Subject: RE: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Categories: External Sender

Marie –

Edward Mason of the Church of England pension fund has asked to join our call. Considering the time zone difference, would it be possible to reschedule for the February 5 time frame (10-11 AM CST)?

Thanks for your consideration,

Adam

Classification: Public

From: Clouthier, Marie A <[REDACTED]>
Sent: Friday, January 3, 2020 3:51 PM
To: KANZER Adam <adam.kanzer@bnpparibas.com>
Cc: Englande, Sherry M <[REDACTED]>
Subject: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

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DATE	(CT) TIME SLOTS
2/4/2020	4-5PM
2/5/2020	10-11AM

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Marie Clouthier
Exxon Mobil Corporation

[REDACTED]
[REDACTED]

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Bates, Tamara L

From: Englande, Sherry M
Sent: Thursday, January 9, 2020 1:45 PM
To: 'adam.kanzer@bnpparibas.com'; Clouthier, Marie A
Subject: RE: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Hi Adam –
Happy New Year! I hope that you have had a wonderful holiday!

Thank you for getting back to us so quickly to find a good time to engage on BNP's proposal. While we're encouraging proponents to reach out to any co-filers or interested others to gather their input and perspectives on the proposals, we do not recommend the inclusion of additional parties to the proponent calls. In the past we have found that additional parties participating in the proponent engagement calls tend to hinder the productivity and collaboration of the discussion between the proponent and the Company. We hope that all of our proponents will join us in seeking a constructive dialogue on the proposal between the proponent and ExxonMobil.

We look forward to talking with you soon.
Thank you
Sherry

From: adam.kanzer@bnpparibas.com [mailto:adam.kanzer@bnpparibas.com]
Sent: Wednesday, January 08, 2020 10:29 AM
To: Clouthier, Marie A <[REDACTED]>
Cc: Englande, Sherry M <[REDACTED]>
Subject: RE: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Marie –

Edward Mason of the Church of England pension fund has asked to join our call. Considering the time zone difference, would it be possible to reschedule for the February 5 time frame (10-11 AM CST)?

Thanks for your consideration,

Adam

Classification: Public

From: Clouthier, Marie A <[REDACTED]>
Sent: Friday, January 3, 2020 3:51 PM
To: KANZER Adam <adam.kanzer@bnpparibas.com>
Cc: Englande, Sherry M <[REDACTED]>
Subject: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Dear Mr. Kanzer,

We hope that this email finds you well. Neil Hansen would like to schedule an hour to discuss your proposal regarding a report on climate lobbying for inclusion in the 2020 Proxy Statement.

Below you will find suggested date/time (Central Time) slots. We plan for the call to be no longer than an hour. We believe proponent engagement is important and value your perspective on this proposal, so we appreciate your willingness to meet by phone. Please respond to Marie Clouthier at [REDACTED] with your preferred timing as soon as convenient.

ExxonMobil Engagement Availability Date/Time All time slots are CT	
DATE	(CT) TIME SLOTS
2/4/2020	4-5PM
2/5/2020	10-11AM

We look forward to talking with you soon.

Sincerely,
Marie Clouthier
Exxon Mobil Corporation
Investor Relations / Office of the Secretary

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ou il aurait été modifié, déformé ou falsifié.

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Bates, Tamara L

From: adam.kanzer@bnpparibas.com
Sent: Thursday, January 9, 2020 3:03 PM
To: Englande, Sherry M; Clouthier, Marie A
Subject: RE: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Categories: External Sender

Sherry –

If this is Exxon's policy, of course I won't seek to dictate who you should or shouldn't talk to, but I would ask that you reconsider in this instance. I wouldn't be suggesting Edward's participation if I didn't think he would constructively add value to the conversation through his involvement in numerous dialogues on this very topic.

Church of England has been one of the key global leaders on the corporate climate lobbying effort and Edward would have a lot of value to add. As you know, he is also the Climate Action 100+ co-lead for Exxon, and the climate lobbying work is very closely aligned with CA100+.

Sincerely,

Adam

Classification: Public

From: Englande, Sherry M <[REDACTED]>
Sent: Thursday, January 9, 2020 2:47 PM
To: KANZER Adam <adam.kanzer@bnpparibas.com>; Clouthier, Marie A <[REDACTED]>
Subject: RE: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

Hi Adam –

Happy New Year! I hope that you have had a wonderful holiday!

Thank you for getting back to us so quickly to find a good time to engage on BNP's proposal. While we're encouraging proponents to reach out to any co-filers or interested others to gather their input and perspectives on the proposals, we do not recommend the inclusion of additional parties to the proponent calls. In the past we have found that additional parties participating in the proponent engagement calls tend to hinder the productivity and collaboration of the discussion between the proponent and the Company.

We hope that all of our proponents will join us in seeking a constructive dialogue on the proposal between the proponent and ExxonMobil.

We look forward to talking with you soon.

Thank you

Sherry

From: adam.kanzer@bnpparibas.com [<mailto:adam.kanzer@bnpparibas.com>]
Sent: Wednesday, January 08, 2020 10:29 AM

To: Clouthier, Marie A <[REDACTED]>
Cc: Englande, Sherry M <[REDACTED]>
Subject: RE: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

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Thanks for your consideration,

Adam

Classification: Public

From: Clouthier, Marie A <[REDACTED]>
Sent: Friday, January 3, 2020 3:51 PM
To: KANZER Adam <adam.kanzer@bnpparibas.com>
Cc: Englande, Sherry M <[REDACTED]>
Subject: ExxonMobil Would Like to Schedule a Teleconference to Discuss Your Report on Climate Lobbying Proposal

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Exxon Mobil Corporation
Investor Relations / Office of the Secretary
[REDACTED]
[REDACTED]

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